

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.372 OF 2023

Mohammad Zafar alias Guddu Shaikh and others

Vs.

State of Maharashtra, Police Station, Balapur, Tq. Balapur, Dist. Akola

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri Kabir Jamb with Ayush Sharma, Advocates for applicants.
Shri M.J. Khan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : JULY 07, 2023.

The present application is preferred by the applicants for grant of anticipatory bail in the event of their arrest in connection with Crime No.291/2023 registered with Police Station, Balapur, District Akola for the offences punishable under Sections 305, 306, 354, 354A read with Section 34 of the Indian Penal Code. During pendency of the application, the applicant no.1 is arrested, and therefore, the application as far as applicant no.1 is concerned, for anticipatory bail became infructuous.

2. The applicant nos.2 and 3 are apprehending their arrest at the hands of police as the crime is registered on the basis of report lodged by one Farjana Be Mohammad Farukh on an allegations that the marriage of her daughter namely Fayja was settled with the applicant no.1. Said Fayja has committed suicide on 05.11.2022. Therefore, informant has filed an application under Section 156(3) of the Code of

Criminal Procedure on an allegation that due to abatement at the hands of the applicants, her daughter has committed suicide. The allegation against the applicant nos.2 and 3 is that after settlement of marriage, they have ill-treated the deceased by demanding the money as well as they were abusing and humiliating by saying that she is having relations with somebody. She was also abused by saying that she is a prostitute. Being fed-up with the said allegations, the deceased has committed suicide and therefore the application filed under Section 156(3) of the CrPC. Learned Magistrate after considering the allegation, directed to register the FIR. Therefore, the crime is registered against the present applicant.

3. As per contentions of the present applicants as marriage of the deceased was broken as deceased was having some love affair with some boy and her parents are not ready to perform her marriage with the said boy, therefore, she has committed suicide. By taking disadvantage of the said fact the complainant has filed false and baseless allegation and on the basis of said false and baseless allegations, the crime is registered against the present applicants. General allegation is made against of the applicants, their custodial interrogation is not required and hence they be protected by granting anticipatory bail.

4. The said application is strongly opposed by the State on the ground that the deceased has committed suicide as she was humiliated and insulted by the present applicants.

During the course of the investigation, the statement of the complainant was recorded. The investigating officer has also recorded statements of other witnesses. From which, it reveals that on 05.11.2022 at around 9.00 pm the applicant no.1 has received a phone call, wherein it was informed that they have to talk about the marriage proposal and accordingly the complainant went to the house of Sultana, at that time, the applicant no.1 along with other accused persons were present there and they informed the complainant that her daughter is having affair with some other boy and she used to talk with him. They also abused the complainant and also uttered the derogatory words against the complainant and her daughter. Due to which, she has committed suicide. Thus, the present applicants abetted the deceased to commit suicide. For the offence punishable under Section 306 of the IPC, punishment of ten years is provided. The custodial interrogation of the present applicants is required and hence application deserves to be rejected.

5. Heard learned counsel for the applicants. He submitted that as far as the applicant nos.2 and 3 are concerned, general allegations are made against them. Even if the allegations are taken as it is, there is no nexus between the allegations and the act of the suicide. Infact, the deceased has committed suicide as her love affair was opposed by her parents. By taking disadvantage of the said fact, the applicants are falsely implicated. Considering the

allegations against them, their custodial interrogation is not required as nothing is to be recovered from them and they be protected in the event of arrest.

6. Learned APP vehemently submitted that due to the insult by using derogatory words by the present applicants the deceased has committed suicide. The offence is of serious nature and hence the application deserves to be rejected.

7. Having heard both sides and on perusal of the recitals of the FIR, it reveals that there are specific allegations against the applicant no.1 however there are general allegations against the applicant nos.2 and 3. It is further alleged that the applicant no.2 has pulled the hair of the deceased and abused her in a derogatory language. Considering the said allegations as nothing is to be recovered from the present applicant. As far as the interrogation is concerned, some conditions can be imposed on the applicants. If the entire recitals of the FIR are taken into consideration, admittedly, there are general allegations against the applicant nos.2 and 3. The nexus between the suicide and the abatement is to be established through the investigation. As far as the investigation is concerned, some conditions can be imposed on the applicant nos.2 and 3. Accordingly, I proceed to pass the following order:

ORDER

- i. The criminal application is allowed.

ii. In the event of arrest in Crime No.291/2023 registered with Police Station, Balapur, District Akola for the offences punishable under Sections 305, 306, 354, 354A read with Section 34 of the Indian Penal Code, applicant no.(2) Raziya Bi Shaikh Mohammad and (3) Sultana Parveen alias Naziya Sultana Shahezad Khan, be released on bail on they furnishing P.R. Bond in the sum of ₹25,000/- each with one surety in the like amount.

iii. The applicant nos.2 and 3 shall attend Police Police Station, Balapur, District Akola once in a week on Monday between 10.00 am and 1.00 pm and shall cooperate in the investigation, till completion of the investigation.

iv. The applicant nos.2 and 3 shall furnish their cell phone numbers and addresses with address proof.

v. The applicant nos.2 and 3 shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

vi. The criminal application as far as applicant no.1 is concerned, disposed of as infructuous.

With this, criminal application is disposed of.

JUDGE

Wagh