



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 579 OF 2024

Vishal s/o Shivaji Gaikwad
Age : 28 years, Occupation Agriculture,
Resident of, Settlement Free Colony,
No.6 Solapur North, Solapur,
Taluka and District Solapur, Maharashtra. ... Applicant
[Orig. Accused No.1]

Versus

1. The State of Maharashtra
Through the Police Inspector/
Investigating Officer in Crime No.1558/2023,
Tophkhana Police Station,
Taluka and District Ahmednagar.
2. Superintendent of Police, Ahmednagar
Office of the Superintendent of Police,
Ahmednagar, Near DSP Chowk,
Mukundnagar, Ahmednagar,
Taluka and District Ahmednagar. ... Respondents

.....
Mr. A. D. Ostwal h/f Mr. A. S. Deshpande, Advocate for Applicant.
Mrs. Ashlesha S. Deshmukh, APP for Respondent Nos. 1 and 2-State.
.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 02.12.2024

Pronounced on : 04.12.2024

ORDER :

1. Apprehending arrest in Crime No. 1558 of 2023 registered at
Topkhana Police Station, Ahmednagar for offence punishable under
Sections 306, 498-A, 323, 504, 506 r/w 34 of the Indian Penal Code
[IPC], instant application has been pressed into service.

2. Learned counsel for the applicant pointed out that applicant is husband of deceased Gauri, who allegedly committed suicide on 28.10.2023, and at the instance of her father Sachin Pralhad Jadhav, above crime has been registered. Taking this Court through the FIR, learned counsel would submit that marriage is of 28.11.2022. It is pointed out from the FIR that informant father himself reported that after marriage, husband and in-laws treated deceased properly. Subsequently, allegations are levelled that husband, parents-in-law, brother-in-law started ill-treatment, however, there is no elaboration as to on what count and in what form. It is alleged that informant father claims to have brought deceased daughter in July 2023 and thereafter, it is claimed that, informant father learnt from his daughter about some extramarital affair of present applicant. That, such allegations are baseless and without any foundation.

3. Learned counsel next pointed out that while staying with parents, deceased Gauri also delivered a baby boy on 29.08.2023. That, on 28.10.2023, i.e. almost two months thereafter, deceased Gauri hanged herself. According to learned counsel, the incident of suicide has taken place while deceased wife was put up with her parents. That, since July 2023 till the incident of 28.10.2023, there was no contact, communication between applicant and deceased and

as such, applicant was literally disconnected with deceased from every mode. Thus, it is submitted that it is erroneous to attribute her suicide to applicant husband. He emphasized that no positive role whatsoever to hold inducement, abetment or instigation, which are *sine qua non* for attracting Section 306, are available.

4. Learned counsel for the applicant pointed out that, after FIR, applicant had approached this Court seeking relief of anticipatory bail and had urged for grant of ad-interim relief. That, this Court, by order dated 09.05.2024, was pleased to grant ad-interim anticipatory bail as learned APP, at that time, sought time to answer relief for want of papers. That, whatever conditions were imposed at that time were scrupulously adhered to and as such, there is no breach or violation. Learned counsel submitted that diary to that extent has been maintained and is also placed on record. He further pointed out that after considerable gap, applicant was also required to seek modification of condition of attending police station, and even this Court was pleased to suspend the condition of attending police station by its order dated 01.10.2024. He pointed out that statement of applicant is already recorded. Nothing is to be recovered or discovered at his instance. He has cooperated with the investigating officer as and when called, and for all above reasons, he prays to

confirm the order granting ad-interim anticipatory bail. He placed on record the diary of attendance and further undertook that, if at all the Investigating Officer further needs applicant's presence, he is still ready to attend and cooperate with the Investigation Officer even hereafter.

5. Strongly opposing the above submissions, learned APP pointed out that there is suicide note seized during investigation. She made a statement that telephonic information has been received from the Investigating Officer that there is no co-operation. According to her, applicant's mobile is yet to be seized and even information about ladies, whose names are appearing in the suicide note, is yet to be investigated.

6. On above submissions advanced by learned APP, and in view of above objection raised for the first time before this Court, this Court sought presence of the Investigating Officer, who appeared, and it was brought to the notice of this Court that, he is the subsequent and new Investigating Officer who has taken over investigation, and he needs presence of accused. On his request, applicant was directed to appear before new Investigating Officer on 27.11.2024 and matter was adjourned.

7. Today, learned APP has placed on record papers and submitted that applicant attended police station on given date and remained present before the Investigating Officer. She also submitted that his mobile is also seized. However, according to her, still investigation remained regarding the ladies whose names are appearing in the suicide note.

8. Learned counsel for the appellant has submitted that whatever information he had, he already furnished the same and even his mobile has been admittedly seized by the Investigating Officer. He further makes a statement that even if henceforth applicant's presence is required by Investigating Officer, he is ready to cooperate on prior notice.

9. After hearing such submissions and on going through the papers, it seems from the FIR that marriage is of 28.11.2022. FIR itself shows that deceased was brought by informant father in the month of July 2023 itself. It is also emerging that deceased Gauri delivered baby on 29.08.2023 i.e. one month after her arrival to parents' place. Informant father alleges that he learnt from his daughter about applicant having an extramarital affair with another

girl. However, FIR is silent regarding details of said girl. It is also not getting clear from the FIR as to exactly or even approximately when deceased reported informant about it. It emerges that deceased Gauri delivered baby in August 2023. It appears that when informant and his wife allegedly took the new born to a hospital on account of some health issue, deceased allegedly hanged herself in the house while she was alone. Informant claims that when he and his wife returned, they found the door locked and in spite of repeatedly knocking, as there was no response, with the aid and help of neighbours, door was broke open to gain entry, upon which, it was realized that she had hanged herself. Hence, report was lodged by father alleging ill-treatment by husband and in-laws and suicide by his daughter because of affair maintained by her husband.

10. As stated above, at the initial stage, after considering the fact that while being put up with her parents, deceased had hanged herself on 28.10.2023 i.e. after being brought by father in July 2023, and as such, ad-interim bail, which was pressed, was granted by this Court by order dated 09.05.2024 i.e. on the ground that APP needed papers. Thereafter, predecessor of this Court seems to be moved for modification of condition to the extent of attendance and this Court, by order dated 01.10.2024, suspended the condition until further

orders. Thereafter, matter appeared on 21.11.2024 and on submissions by learned APP, the Investigating Officer was directed to remain present. It was noticed that there was mere telephonic information to learned APP and no papers were passed on to learned APP in support of non-cooperation by applicant. Resultantly, on 25.11.2024, Investigating Officer, who was found to be subsequent Investigating Officer, remained present and on his submissions, applicant was made to attend the police station. To that extent, learned APP has already agreed that applicant did appear in the police station and attended Investigating Officer and that inquiry was made with him and even his mobile has been seized. However, learned APP further emphasized that investigation with regard to the names of the ladies, which are appearing on the alleged suicide note, is still incomplete. But as stated above, learned APP fairly conceded that applicant attended police station and his mobile handset, which new Investigating Officer was keen to secure, is already seized. Therefore, admittedly when there is cooperation by attending police station and apparently when no efforts were done previously by first Investigating Officer to seize the mobile handset, which is now seized, and when there was no resistance before this Court by prosecution to the very modification of condition, very condition of attending police station was relaxed. Now, fresh attempt is made by prosecution to

secure presence and that is already complied. It is not clear whether after ad-interim order dated 09.05.2024, the then Investigating Officer did at all approach APP and appraised about requirements raised now.

11. Taking above material into consideration and also taking into account statement made by learned counsel across the bar that applicant is still ready to attend police station as and when required, on prior notice by the Investigation, application is required to be allowed by making the interim order absolute. Hence, following order is passed :

ORDER

- I. The application is allowed.
- II. The order dated 09.05.2024 passed by this Court, granting ad-interim bail to the applicant is made absolute with modification of the condition at clause (iii) of para 4 to the effect that, applicant shall attend the police station as and when required and on prior written notice by the Investigating Officer.
- III. The application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]