



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

948 BAIL APPLICATION NO. 1536 OF 2024 WITH
CRIMINAL APPLICATION NO. 3876 OF 2024

Hari @ Haridas Rameshwar BardeApplicant

VERSUS

The State of MaharashtraRespondent

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Mr. N. S. Ghanekar, Advocate for Applicant.

Mr. S. B. Pulkundwar, APP for the State.

Mr. A. H. Dhupe, Advocate for the victim.

CORAM : S. G. MEHARE, J.

DATE : 24th SEPTEMBER, 2024.

PER COURT :

1. Criminal Application No. 3876 of 2024 is allowed and stands disposed of.
2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the victim.
3. Applicant seeks bail in Crime No. 145/2024 registered with Goregaon Police Station, Dist. Higoli, for the offences punishable under Sections 306, 376(2)(n), 354(a) read with Section 34 of the Indian Penal Code.

4. Prosecution, in brief, has a case that the Applicant teased the deceased/wife of complainant three months before the date of the incident. On the day of the incident, the deceased was sleeping besides the complainant/husband. However, at late night hours, he saw that the deceased was not besides him. Hence, he took search and found one chit in which the allegations have been levelled against the Applicant that she is committing suicide because, the Applicant and co-accused were blackmailing and raping her. They have raped her many times and forced her to do many things. They had given her phone call and forced her to call with them. Now, it is not possible for her to do the things as stated above and hence she is committing suicide. She has also recorded her statement in mobile handset saying that she is committing suicide. The Government should make justice with her husband and the accused.

5. Learned counsel for the Applicant would submit that the circumstantial evidence as regards phone call and committing rape are missing in the case. The Applicant cannot be kept behind the bar on sole suicide note. There is absolutely no evidence against the Applicant. When the bail application was pending, a false NC was registered against the father of the Applicant to create a ground for

opposing the bail. Her statement in video recording, is that Applicant is responsible for her death. No details of committing rape or harassment appear from the suicide note. Probably she might have hurt since she was teased three months before the incident. Thereafter, there was no incident as such which were sufficient to believe that the Applicant and the co-accused have abetted the deceased to commit suicide. Therefore, Section 306 of the Indian Penal Code is not attracted. In the absence of any evidence of rape, it is difficult at this stage to believe that the Applicant had abetted the deceased to suicide. The investigation has been completed. Nothing is to be recovered from the Applicant. Hence, he may be granted bail.

6. Learned APP for the State strongly relied on the suicide note and the statement of the deceased recorded in the video of mobile handset. However, he could not explain the Court what were the other circumstances to corroborate to the statement of the deceased. However, he strongly relied on the statement on the other witnesses about the conduct of the Applicant. He would submit that a strong prima facie evidence is available against the Applicant. The

offence is serious. The family of the deceased has been destructed due to the acts of the Applicant and co-accused.

7. Learned counsel for the victim has vehemently argued that after the incident the husband of the victim was seriously assaulted but the police did not take cognizance and convinced him that the Applicant is a rich person so he would get nothing. However, the father of the Applicant threatened the victim on 18.7.2024 that he should take this case back. The statement of the victim recorded in video is a statement as to the cause of death. Therefore, it cannot be thrown without giving importance. He also prayed to dismiss the application.

8. The facts from the case reveal that the prosecution has no evidence except the suicide note and video recorded statement of the deceased. However, the prosecution did not have evidence of handset which was supplied to deceased by the accused. The Applicant and the deceased were residing in a small village. The prosecution could not collect a single witness raising a doubt about the relationship of the Applicant with the deceased. It would require a deep inquiry. The NC was registered when the bail application of

the Applicant was pending. That may also be considered at the relevant time. The material evidence which the prosecution wants to rely is collected. Considering the facts and circumstances of the case, this Court is of the view that the Applicant deserves bail and no purpose would be served keeping him behind the bar. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) Applicant be released on furnishing P.B. and S.B. of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety of the like amount in connection with Crime No. 145/2024 for the above offences, on the following conditions :-
 - (a) He shall not contact the victim or other witnesses till the trial is concluded.
 - (b) He shall attend the trial on each and every effective date.

(S. G. MEHARE)
Judge