

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2812 OF 2024**

Sonali Tirupati Wayakar	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Aashay Rabade a/w. Mr. Ashish Kumar Srivastava, i/b. Mr. Digvijay Shirole for applicant.

Mr. Balraj B. Kulkarni, APP for respondent-State.

**CORAM : MANISH PITALE, J.
DATE : 18th OCTOBER, 2024**

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0199 of 2024 dated 26.06.2024, registered at Barshi Taluka Police Station, District Solapur Rural, for offences under Sections 306 and 498-A read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The informant is the brother of the deceased. It is alleged that the deceased was constrained to commit suicide by jumping in front of a moving bus because of the harassment meted out by the accused persons. There are 4 accused persons, of whom the 3 accused persons other than the applicant, are the husband, mother-in-law and sister-in-law of the deceased. The applicant is stated to be the person with whom the husband of the deceased was having affair.

4. The learned counsel for the applicant submits that in the entire statement of the informant, leading to registration of the FIR, reference to the applicant is made only towards the end and that too, in a general manner about being the lover of the husband of the deceased and at whose behest, the other 3 co-accused persons had harassed the deceased victim. It is submitted that the ingredients of the offences under Sections 306 and 498-A of the IPC are not made out against the applicant. She is ready to co-operate with the investigation and hence, the application may be allowed.

5. The learned APP submits that the victim committed suicide because of harassment suffered at the hands of the accused persons and the overt act of the applicant is stated in the statement of the informant, which led to registration of the FIR. It is submitted that the application may be dismissed.

6. A perusal of the statement leading to registration of FIR shows that in the entire statement, there are series of allegations made against the 3 co-accused persons, who are the husband, mother-in-law and sister-in-law of the deceased. It is only towards the end of the statement, that a reference is made to the applicant as the person having an affair with the husband of the deceased. A general allegation is made that the co-accused persons were harassing the deceased on the instructions of the applicant.

7. The offence under Section 306 of the IPC pertains to abetment of suicide and offence under Section 498-A of the IPC concerns offence, wherein the victim is subjected to cruelty by the husband or relative of the husband.

8. In this case, it is not even alleged that the applicant is a relative of the husband and therefore, offence under Section 498-A of the IPC *prima facie* cannot be invoked against the applicant.

9. As regards Section 306 of the IPC, there has to be some material to show that the applicant acted in a particular manner, proximate in point of time, when the victim committed suicide, which could be said to be an instigation on her part, impelling the victim to commit suicide.

10. In the present case, *prima facie*, there is no such allegation against the applicant. She is merely stated to be a person with whom the husband of the deceased was having an extramarital affair and there is a general allegation at the end of the statement of the informant, while the focus of the allegations is on the 3 co-accused persons, who are the husband, mother-in-law and sister-in-law of the deceased.

11. This Court is of the opinion that the applicant has made out a *prima facie* case in her favour and therefore, she deserves to be granted relief in the present case.

12. In view of the above, the application is allowed in the following terms:

- (i) In the event the applicant is arrested in connection with FIR No.0199 of 2024 dated 26.06.2024, registered at Barshi Taluka Police Station, District Solapur Rural, she shall be released on bail on furnishing PR Bond of ₹ 15,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant shall remain present before the Investigating Officer as and when required.

- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. She shall not influence the informant, witnesses and other persons concerned with the case.
- (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

13. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

14. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli