

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 212 OF 2024

SANTOSH
SUBHASH
KULKARNI

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Mr. Vasiulla Kharkulla Choudhary ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Aseem Naphde, i/b Prem Kumar Pandey, a/w Pavan
Kumar Pandey and Vinayak Agre, for the Applicant.
Mr. S. R. Aagarkar, APP for the State/Respondent.
PSI Ahirrao, Boisar Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 9th FEBRUARY, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.470 of 2023, registered with Boisar Police Station, Palghar, for an offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").
3. The first informant is the husband of Haridnya (the deceased). They had solemnized marriage on 17th January, 2016 against the wishes of the deceased's family. Accused No.1 Prabhakar Raul, the father of the deceased, was against

the marital bond of the first informant and the deceased. The father had allegedly harassed the first informant and the deceased by resorting to various illegal means and instituting false proceedings. Accused No.1 had threatened the deceased and the first informant and tried to implicate them in false cases. It is further alleged that on 25th May, 2023 at Palghar Court premises accused No.1 Prabhakar had abused and instigated the deceased to die.

4. Fed up of the continuous harassment, the deceased had consumed rat poison on 10th October, 2023. Eventually the deceased succumbed to the injuries on 14th October, 2023. In the FIR, the first informant further alleged that Prabhakar Raul had sent the applicant to his home to threaten the deceased to withdraw the proceedings against Prabhakar Raul. Thus, the applicant has been implicated alongwith accused No.1 Prabhakar Raul.

5. The learned Counsel for the applicant submitted that the applicant had no role in the alleged occurrence. There is a passing reference in the FIR that accused No.1 Prabhakar had sent the applicant to threaten the deceased. The applicant has not been named in the alleged statement of the deceased recorded on 13th October, 2023.

6. The learned APP resisted the prayer for pre-arrest bail. It was submitted that the applicant was a privy to the alleged offence. The applicant is in illegal occupation of the shop, over which the deceased had laid claim. Inviting the attention of the Court to the statement of the first informant under Section 164 of the Code of Criminal Procedure, 1973 ("the Code") it was submitted that the applicant's involvement in the abetment to commit suicide is *prima facie* made out.

7. I have carefully perused the FIR, the statement of the deceased recorded on 13th October, 2023 and the statement of the first informant under Section 164 of the Code.

8. I find substance in the submissions of the learned Counsel for the applicant that there is but a passing reference in the FIR to the effect that accused No.1 Prabhakar had sent the applicant to threaten the deceased to withdraw the proceedings instituted against her father. Even if the said allegation is taken at par, it would be rather difficult to draw an inference even *prima facie* that the said act constituted such a direct or proximate act on the part of the applicant which could be construed as an intentional aid or instigation to commit suicide.

9. Evidently, the relationship between the deceased and the first informant, on the one part, and accused No.1 Prabhakar, on the other part, was fractious. A number of proceedings were instituted. In the circumstances of the case, there is *prima facie* no material to indicate that the applicant can be roped in for an offence punishable under Section 306 of the Penal Code. I am, therefore, inclined to exercise the discretion in favour of the applicant.

10. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.470 of 2023, registered with Boisar Police Station, Palghar, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Boisar Police Station on 13th, 14th and 15th February, 2024 between 10.00 am. to 1.00 pm. and, thereafter, as and when directed.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first

informant or any of the persons acquainted with the facts of the case.

- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]