

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 435 OF 2024

Abhishek Vijay Ghanekar	..Applicant
Versus	
State of Maharashtra	..Respondent

Mr. Abhishek Upadhye a/w. Nishita Patil for Applicant.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

**CORAM :- SARANG V. KOTWAL, J.
DATE :- 15 FEBRUARY 2024**

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.306 of 2023 registered at Dattawadi Police Station, Pune City, on 07.10.2023, under Sections 306, 304-B, 498-A, 323, 504 and 506 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Abhishek Upadhye, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.
3. The F.I.R. is lodged by the mother of the deceased on 07.10.2023. She has stated that her younger daughter got married with the present applicant in the year 2021. This was the second

marriage for both of them. It is mentioned in the F.I.R. that, between the engagement and the marriage, on one occasion the applicant had abused her and there was some quarrel between them; but thereafter they got married. It is the case of the first informant that, during the wedding, the informant's family spent Rs.12 lakhs as per the demand of the applicant and his family. After the marriage, the applicant went to Germany. The applicant used to abuse the deceased. In December 2021, the deceased, the applicant, the applicant's sister and her husband had gone to Maldives. Even there the applicant used to illtreat her and used derogatory words against the deceased. On 25.12.2021, on one occasion the applicant abused and assaulted the deceased in front of the informant. On 12.04.2022 the deceased went to Germany, but even there the applicant used to beat her. The deceased used to call the informant through video call. It is mentioned in the F.I.R. that the applicant used to visit prostitutes and he had affairs with other girls. The applicant used to threaten that he would kill the deceased. The informant has stated in her F.I.R. that the applicant used to abuse the deceased in filthy language. The

informant herself had seen such incidents and had heard such abuses. On 12.09.2022, the applicant had beaten the deceased and had even pressed her throat. In December 2022, again the applicant had assaulted the deceased.

4. On 22.06.2023, the applicant's family contacted the informant telephonically and discussed about the divorce between the applicant and the deceased. On 22.06.2023 the applicant had beaten her and had abused her. On that night itself, she committed suicide by hanging herself. On these allegations the F.I.R. is lodged.

5. Learned counsel for the applicant submitted that the F.I.R. is lodged as an afterthought. There is a delay of more than three months in lodging the F.I.R. The incident of suicide was dated 22.06.2023 and the F.I.R. was lodged on 07.10.2023. That delay has remained unexplained. He submitted that, at the first instance, immediately after the incident, the statements of the parents of the deceased were recorded. But at that time they had not made any allegations. There are no antecedents against the applicant. He is willing to co-operate with the investigation. In fact, when he was on ad-interim protection, granted by the

Sessions Court, he used to regularly visit the police station for co-operating with the investigation, but the police did not show any interest in making enquiry with him. His custodial interrogation is not necessary. Nothing is to be recovered from him. The e-mail and other communication would be subject to the provisions of the Evidence Act. He, therefore, submitted that, in such circumstances, the applicant be protected by an order U/s.438 of the Cr.p.c.

6. Learned APP opposed these submissions. She produced the investigation papers before me. She submitted that the deceased had sent an e-mail to her sister expressing her intention to commit suicide because of the harassment caused by the applicant to her.

7. I have considered these submissions and I have perused the investigation papers. The postmortem notes show that the deceased had committed suicide and the cause of death was 'asphyxia due to hanging'. In the e-mail referred to by the learned APP, the deceased had given details of her finances and she had stated that she felt helpless and that she could not tolerate anything more. As far as the contention of delay in lodging of the

F.I.R. is concerned, the investigation papers show that the sister of the deceased had complained to the police on 18.08.2023. The complaint was addressed to the Police Commissioner, Senior Inspector of Dattawadi police station and to the Mahila Ayog. In that complaint the same allegations were made against the applicant. Therefore, delay in lodging the F.I.R. is not up to 07.10.2023 when the F.I.R. was actually registered. There are specific and clear allegations against the applicant. The gravity of the offence is also one of the considerations for grant or refusal of the anticipatory bail application. In this case, the allegations against the applicant are serious. The deceased had committed suicide. The F.I.R. mentions that the applicant acted and behaved in such a manner that the deceased was left with no option but to commit suicide.

8. In this view of the matter, the applicant cannot be protected U/s.438 of the Cr.p.c. The application is rejected.

(SARANG V. KOTWAL, J.)