

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

ANTICIPATORY BAIL APPLICATION NO. 761 OF 2024

Roma Rajesh Kamble

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Omkar Chitale a/w. Vishal Dhanavade a/w. Varsha Bhosale for Applicant.

Ms. Poonam P. Bhosale, APP for State/Respondent.

Mr. Paras Yadav for Intervenor/first informant.

CORAM : SARANG V. KOTWAL, J.

DATE : 21 MARCH 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 95 of 2024, registered at Laxmipuri Police Station, Kolhapur, on 21.02.2024, under section 306 r/w.34 of the Indian Penal Code.

2. Heard Omkar Chitale, learned counsel for the applicant, Ms. Poonam Bhosale, learned APP for the State and Mr. Paras Yadav, learned counsel for the first informant.

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3. The F.I.R. is lodged by the mother of the deceased Rajesh in respect of suicide committed by him. Rajesh was married to the present applicant in the year 2007. They have a daughter. The F.I.R. mentions that, since 2009 Rajesh and the present applicant were residing separately from the informant. There was past history of bad relations between the husband and wife. The applicant had lodged a police complaint. In 2020, the informant's husband passed away. Rajesh got a job in Kolhapur Municipal Corporation. He used to visit the informant's house and used to tell her that the applicant had taken loan from various people and it was to be repaid. Rajesh used to ask for money from the informant. Rajesh had also filed the proceedings for divorce. The F.I.R. mentions that the applicant had lodged another complaint at Juna Rajwada police station.

4. On 20.02.2024, Rajesh came to the informant's house. He had a small talk with her and went to the upper floor. Before going there, he told the informant that the applicant and their daughter were harassing him and that the informant should help him. There is a reference to Rajesh's daughter having an affair with

a boy; which was not approved by Rajesh. That was the another reason as to why Rajesh was upset. On 20.02.2024, Rajesh committed suicide by hanging himself in the informant's house on the upper floor. On this basis, the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that the deceased was staying separately from the applicant since about one month prior to the incident. The applicant had lodged an F.I.R. vide the C.R.No.128 of 2024 on 07.02.2024 at Juna Rajwada police station, under sections 498-A, 504 and 506 r/w. 34 of the I.P.C. In that F.I.R., she had described as to how she was harassed by the deceased Rajesh, the informant and their other family members. On 04.02.2024, all of them had come to her rented place and had assaulted her. On this basis that F.I.R. was lodged by the applicant.

6. Learned counsel also invited my attention to the decision in R.C.C.No.56 of 2021 which was decided on 20.08.2021. Vide that Judgment and order, the learned J.M.F.C., Court No.3, Kolhapur had noted a settlement between the

applicant on one hand and the deceased, his mother and sister on the other hand. The said Judgment shows that the applicant had prosecuted Rajesh and his family members in that prosecution. But the matter was settled and only on the basis of settlement, the informant and Rajesh were acquitted. He submitted that, there is history of harassment caused to the applicant and she had taken legal recourse of filing an F.I.R. against the deceased Rajesh and his family members. He submitted that, in the background of these facts, the ingredients of 'abetment' as defined U/s.107 r/w. 306 of the I.P.C. are not made out. The applicant's custodial interrogation is not necessary.

7. Learned APP produced the investigation papers before me. They contain opinion of cause of death. It was mentioned as 'asphyxia due to hanging'. Learned APP relied on an application given by the deceased Rajesh to the Superintendent of police on 04.02.2024. In that application, he had mentioned his grievances against the applicant, his daughter, the applicant's brother and other third persons.

8. Learned counsel for the first informant also relied on the grievances made by Rajesh in that complaint. According to him, this complaint clearly mentions as to how Rajesh was continuously harassed which left him with no option but to commit suicide.

9. I have considered these submissions. The application given by deceased Rajesh to the police mentions various reasons as to why he was mentally upset. There are allegations against the applicant, her family members, her daughter, applicant's brother and the third persons. In this background of the complaint made by Rajesh, the F.I.R. registered at the instance of the applicant will also have to be considered. In that F.I.R., she has described how she was harassed and illtreated by the applicant. Therefore, there are allegations and counter allegations. The deceased was residing separately from the applicant since past about one month prior to the incident, as is mentioned in her F.I.R. The F.I.R. lodged against the applicant mentions that, Rajesh had preferred proceedings for divorce. Thus, it is clear that, there were matrimonial disputes between the applicant and Rajesh. There were complaints and

counter complaints. There are various other reasons mentioned by the deceased Rajesh in his complaint. Therefore, at this stage, the question of necessity of custodial interrogation would take precedence over the allegations made against the present applicant. Considering the stand taken by both the parties, at this stage, it is difficult to observe that the applicant's conduct was the only cause driving the deceased to commit suicide. All these factors will have to be ultimately decided during trial. Considering these facts, the applicant's custodial interrogation is not necessary. It is made clear that, these observations are made only for passing of this order.

10. Hence, the following order :

ORDER

- i) In the event of her arrest in connection with C.R.No. 95 of 2024, registered at Laxmipuri Police Station, Kolhapur, the applicant is directed to be released on bail on her executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)