

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

ANTICIPATORY BAIL APPLICATION NO. 1196 OF 2024

Nilesh Govind Agawane

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Anil S. Shitole for Applicant.

Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 30 APRIL 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.576 of 2023 registered at Pandharpur city Police Station, District Solapur, on 31.08.2023, under sections 306 and 506 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Anil Shitole, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.
3. The F.I.R. is lodged by one Akash Shinde in respect of the suicide committed by his sister. He has stated that, his deceased sister had completed the graduation in B.Tech. Electrical.

She was working as a Caretaker with one Dr. More to look-after his grandson. On 21.07.2023, Dr. More called the informant enquiring about the informant's sister. That time the informant realised that his sister was missing from 20.07.2023. The informant and his family went to Pandharpur city police station and lodged the complaint about his sister's missing from her house. While making enquiries, the informant came across a mobile phone number. On further enquiry, it was found that it belonged to the applicant's brother Sandesh. He was having love relationship with the informant's sister.

4. On 25.07.2023, the dead body of the informant's sister was found in Bhima river. The police made enquiries with one Mahamuni who was friend of the deceased. He had telephonic conversation with the deceased before her death. The police heard that conversation. It is the case in the F.I.R. that, Sandesh had kept relationship with the deceased and then refused to marry her. When the deceased went to his house, the applicant also scolded her and asked her to stay away from Sandesh. Left with no option, she committed suicide. On these allegations the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that the deceased was missing since 20.07.2023, her dead body was found on 25.07.2023 and the F.I.R. is lodged on 31.08.2023. It clearly shows that the F.I.R. is lodged as an afterthought. In any case, the applicant has not played any role. Even if the allegations are taken, at the highest, the allegations would not fall within the meaning of Section 107 r/w. 306 of the I.P.C. The applicant did not have any relationship with the deceased. It was the applicant's brother who was allegedly having relationship with the deceased and he had refused to marry her. The applicant cannot be held responsible for his brother's conduct.

6. Learned APP opposed these submissions. She relied on the statement of Mahamuni. She further submitted that the said statement shows that the applicant had asked the deceased to stay away from Sandesh, which led her to commit suicide. She further submitted that the informant came to know about his sister's relationship and the role played by both the accused much later and, therefore, there was delay in lodging the F.I.R. The delay, thus, stands explained.

7. I have considered these submissions. In this case the charge-sheet is already filed. The applicant's brother was arrested and as of today he is released on bail. The investigation is already over. A copy of the charge-sheet is annexed to this application. The applicant's role is only stated by the witness Aditya Mahamuni. He has told the police in his statement that on 20.07.2023, at about 4:00 to 4.30p.m. the deceased had called him and had told him that, she had gone to the house of Sandesh. At that time, the applicant was present in the house. He did not listen to her. Instead, he told her to stay away from Sandesh, otherwise, he would lodge a complaint with the police. The deceased had further told this witness that she was at a loss to think about what steps she should take and that she was thinking of committing suicide. Her grievance was that, Sandesh was avoiding to marry her.

Even if this statement is taken into account, it may not amount to 'abetment' as defined U/s.107 r/w.306 of the I.P.C. The applicant as a brother had not acted in unusual way. His refusal to listen to the deceased will certainly not amount to instigation for her to commit suicide. The main grievance of the deceased was

against the applicant's brother who was in relationship with her. It is only on his refusal that she had taken this extreme step. The applicant's role is very minor compared to his brother. In any case, as discussed earlier, his conduct may not amount to 'abetment' as defined U/s.107 of the I.P.C. In this view of the matter, the applicant deserve protection U/s.438 of the Cr.p.c.

8. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.576 of 2023 registered at Pandharpur city Police Station, District Solapur, the applicant is directed to be released on bail on his 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 cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)