

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1437 OF 2024**

Rajendra Ramchandra Divekar ... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. Dhiraj Bansode for applicant.

Mr. Sagar R. Agarkar, APP for respondent-State.

Mr. Chetan Deshmukh, having instructions to appear for the informant.

Mr. Vikas Pandurang Dhokare, API, Saykheda Police Station, Nashik Rural.

CORAM : MANISH PITALE, J.

DATE : 18th JUNE, 2024

P.C. :

1. Heard learned counsel for the applicant and the learned APP appearing for the State.

2. The applicant has filed the present application apprehending arrest in connection with FIR No.0111 of 2024 dated 20.04.2024 registered at Saykheda Police Station, District Nashik Rural for offences under Sections 201 and 302 of Indian Penal Code, 1860 (IPC).

3. The allegation against the applicant is that he allegedly caused death of his own mother by showing that she had committed suicide by hanging herself on a tree in the premises of the house of the applicant, where the victim was also residing with him.

4. The incident in the present case occurred on 16.02.2024 and the FIR was registered on 20.04.2024. The record shows that the informant is a social worker, who approached the police when he found something suspicious in the present case, for the reason that the victim was having

health issues and she could not have herself walked up to the tree and hung herself. It appears that the police did not register the FIR due to which the informant had to file an application under Section 156(3) of Criminal Procedure Code, 1973 (Cr.P.C.) before the jurisdictional Magistrate. By order dated 19.04.2024, the concerned Magistrate allowed the application and directed registration of FIR, leading to registration of the subject FIR.

5. The learned counsel for the applicant submitted that apart from the fact that there is delay in registration of FIR, none of the family members of the applicant or any villager have raised any suspicion or grievance with regard to the suicidal death of the mother of the applicant. It was submitted that the informant caused the FIR to be registered, for the reason that the applicant is the *panch* witness in a criminal case pending against the informant, wherein a friend of the applicant is the original informant/complainant concerning offences under the provisions of Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 [SC ST Act]. It is alleged that in this backdrop, the informant has unnecessarily triggered the criminal process against the applicant, while the present case is a simple case of suicide. The learned counsel for the applicant submitted that the material of record may show that the mother of the applicant was suffering from health issues, but she was moving around with the help of a walker.

6. The learned APP submitted that the statements of witnesses, including statement recorded under Section 164 of Cr.P.C., indicate that the victim had suffered from paralysis and that she could not have been walked upto the tree, thereby giving credence to the statement leading to registration of FIR. It is submitted that in these circumstances, this Court may not favourably consider the present application.

7. The learned counsel having instructions to appear on behalf of the informant, supported the submissions made by the learned APP and submitted that the victim was an old lady, who could not have moved on her own and therefore, there is suspicion against the applicant.

8. This Court has perused the material on record. The victim was found hanging on a tree in the premises of the house of the applicant. It was initially treated as a case of suicide and the body was also cremated. It is a matter of record that none of the family members of the applicant or any of the villagers came forward to raise any suspicion.

9. It is after a few days that the informant approached the police, making allegations against the applicant. Eventually, the FIR was registered on 20.04.2024, on the basis of the order passed by the Magistrate on 19.04.2024.

10. Considering the aforesaid facts, delay in registration of FIR may not come to the aid of the applicant, while pressing for the prayers made in the present application.

11. Nevertheless, it is a matter of record that the suspicion against the applicant was not raised by any of the family members or the villagers. The informant raising the issue has to be appreciated in the backdrop of the material brought to the notice of this Court, which indicates that the informant is indeed an accused person in a criminal case for offences under the provisions of SC ST Act, wherein the applicant is a *panch* witness. Expressing no opinion about the aforesaid case, this Court finds that the delay in approaching the police has to be appreciated in the backdrop of the aforesaid material. So long as the applicant is ready to co-operate with the investigation, considering the facts that emerge from the material available

on record, the Investigating Officer has not been able to justify the reason for custodial interrogation of the applicant.

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

- (i) In the event the applicant is arrested in connection with FIR No.0111 of 2024 dated 20.04.2024 registered at Saykheda Police Station, District Nashik Rural for offences under Sections 201 and 302 of IPC, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- (Rupees Twenty-five Thousand only) and one surety in the like amount.
- (ii) The applicant shall remain present before the Investigating Officer on 25.06.2024 and thereafter, as and when the Investigating Officer calls upon him to remain present.
- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He 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. Needless to say, 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)