

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3139 OF 2024

Dattatray Shyamrao Hirbhagat ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Rupesh Atul Zade for Applicant.
Ms. Megha S. Bajoria, APP for Respondent-State.
Mr. D. H. Ghorude, Head Constable, Karmala Police Station, Solapur (Rural)

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 27, 2024

P.C. :

. Heard Mr. Zade, learned counsel for the applicant and Ms.Bajoria, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0461 of 2024 dated 17.07.2024 registered with Karmala Police Station, District - Solapur (Rural), for offences under Sections 103, 333 and 3(5) of the Bhartiya Nyaya Sanhita, 2023, (BNS).

3. The first informant, in the present case, is the mother of the deceased. According to her, on the date and time of the incident, three persons forcibly entered her house and assaulted her daughter by means of *koyata*, resulting in serious injuries and eventually, the death of the daughter. The first informant stated that, she had suspicion over the named accused persons i.e. the husband of the deceased daughter, his friend and a third person with whom the daughter was allegedly having illicit relations.

4. The learned counsel for the applicant submits that the applicant is not named as an accused person and there is hardly any material to link

the applicant with the incident in question. It is submitted that no overt act is attributed to the applicant and therefore, this Court may consider granting relief.

5. The learned APP submits that as per statements of witnesses, the car, in which the assailants left from the place of the incident, was that of the applicant and therefore, his link is established with the offence in question. It is further submitted that the Sessions Court also took into consideration the aforesaid factor, while rejecting the application for anticipatory bail filed by the applicant.

6. This Court has perused the material on record. It is an admitted position that the applicant is not named as an accused person in the FIR. There is no overt act attributed to the applicant as regards the assault on the victim. In fact, even the presence of the applicant is not mentioned in the FIR at any place. The statements of witnesses indicate that on the date of the incident, the applicant may have used or driven the car in which the named accused persons allegedly escaped after the assault inflicted upon the victim. In such a situation, even if the material brought to the notice of this Court is to be accepted for the sake of arguments, the ingredients of the offences registered in the present case, *prima facie*, cannot be said to be made out against the applicant. Therefore, the applicant has made out a case in his favour.

7. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0461 of 2024 dated 17.07.2024 registered with Karmala Police Station, District - Solapur (Rural), he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;

- B. The applicant shall remain present before the investigating officer on 29.11.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

8. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

9. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab