IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2090 OF 2024

Vishalsing @ Vishal Ratansing Badurwale ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 2187 OF 2024

IN

BAIL APPLICATION NO. 2090 OF 2024

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SHRIKANT SHRINIVAS MALANI
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Date: 2024.10.16 11:41:20 +0530

- Mr. Ritesh Thobde a/w Ms. Ankita Pramod Rai, for Applicant.
- Mr. Prasanna P. Malshe, APP for Respondent.
- Mr. Hrishikesh S. Shinde, Applicant in IA/2187/2024.

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CORAM : MANISH PITALE, J.

DATE : 15th OCTOBER, 2024.

P. C. :

1. Heard, Mr. Thobde, learned counsel for the applicant, Mr. Malshe, learned APP for the respondent-State, as also Mr. Shinde, learned counsel appearing for the first informant.

2. At the outset, the learned counsel for the applicant relies upon order dated 14.06.2024, passed by this Court, whereby anticipatory bail was granted to a co-accused person i.e. the father of the applicant herein. It is submitted that the applicant was arrested on 18.12.2023 and even his police custody was not sought by the investigating authority and he has remained in magesterial / judicial custody since then.

3. It is submitted that in the present case the applicant was arrested in connection with First Information Report No.0794 of 2023, dated 18.12.2023, registered at Police Station Sadar Bazar, District Solapur, for offences under Sections 306, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

4. The FIR was registered on the basis of a statement given by the father of the deceased. The informant stated that on the date of the incident, he found his daughter looking depressed and when he enquired from her as to the reason for such tension and depression, she allegedly stated that the accused persons, including the applicant had accosted her and threatened her not to give evidence in respect criminal cases concerning an offence under Section 307 of the IPC in so far as one case was concerned and another case concerning offences under the provisions of the the Protection of Children from Sexual Offences Act, 2012, wherein the deceased herself was the first informant. The informant further stated that at about 09:30 a.m. in the morning, when he was to leave for Court, he called for his daughter and when she did not respond, he found that she had committed suicide by hanging.

5. The learned counsel for the applicant relies upon the reasons recorded by this Court in the aforementioned order dated 14.06.2024, whereby Anticipatory Bail Application No.1298 of 2024 filed by the co-

accused person (father of the applicant) was allowed. He submitted that the principle of parity ought to apply and that in any case this is an application for regular bail, the applicant having suffered incarceration for about 10 months. It was submitted that the ingredients of the offence under Section 306 of the IPC are not made out and that the suicide note left behind by the deceased does not implicate the applicant in any manner.

6. The learned APP as well as the learned counsel appearing on behalf of the first informant (intervenor) have vehemently opposed the present application. It is submitted that there is material to indicate that a family member of the applicant had filed a supporting affidavit in the criminal case arising from the aforementioned FIRs, wherein the deceased was a possible witness. She was being harassed on that count by the applicant and the other accused persons, thereby indicating direct involvement of the applicant in abetting the suicide of the deceased.

7. This Court has considered the material on record, particularly in the light of the aforementioned order dated 14.06.2024, whereby the co-accused person (father of the applicant) was granted anticipatory bail.

8. The relevant portion of the aforementioned order reads as follows:

> *"10. The material on record shows that according to the*

informant, the accused persons had accosted the victim on a number of occasions and threatened her not to give evidence in the cases concerning POCSO Act and the offences under Section 307 of the IPC. It is the case of the informant that due to the aforesaid reason the victim was depressed and she committed suicide.

11. As noted hereinabove, the applicant before this Court is not an accused in any of the aforesaid cases. Therefore, he would have no reason to threaten the victim not to give evidence in the Court in respect of the said cases. At worst, it appears that there was a quarrel between the applicant and the informant in the backdrop of the matrimonial dispute between the daughter of the applicant and the informant. This Court is unable to understand the connection of the aforesaid pending criminal cases with the applicant before this Court.

12. Apart from this, the suicide note does not name the applicant as the person responsible for the victim taking the extreme step. In fact, the tenor of the suicide note indicates that the victim was depressed and she did not want to live."

9. The co-accused person was granted anticipatory bail additionally for the reason that he was found to be a senior citizen aged about 70 years. The said aspect does not apply to the applicant herein. Nonetheless, the above quoted reasons in the said order equally inure to the benefit of the applicant.

10. The incident regarding quarrel involving the applicant concerns a situation where the sister of the applicant i.e. the wife of the informant had returned to her matrimonial house after having stayed away for a period of about 5 years. The incident of threatening or alleged actions attributed to the applicant took place in the backdrop of the said matrimonial dispute between the informant and his wife i.e. the sister of the applicant.

11. In such a situation, particularly when the suicide note left behind by the deceased does not in any manner implicate the applicant, this Court finds that the basis on which the learned APP and the learned counsel appearing for the first informant have opposed the present application, appears to be farfetched. The applicant has made out a *prima facie* case in his favour. No purpose would be served by continuing the judicial custody of the applicant, pending the trial.

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

(A) The applicant shall be released on bail in connection with FIR No.0794 of 2023, dated 18.12.2023, registered at Police Station Sadar Bazar, District Solapur, on furnishing PR bond of ₹ 25,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court.

(B) The applicant shall not tamper with the evidence in any

manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

(C) The applicant shall cooperate with the investigation.

(D) The applicant shall attend the proceedings before the Trial Court on every date, except when exempted, for reasons to be recorded in writing.

(E) The applicant shall upon being released immediately inform the Investigating Officer of his Contact numbers and residential address and update the same in case of any change.

13. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicants shall be liable to be cancelled.

14. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The application is disposed of.

16. The intervention application is also disposed of.

(MANISH PITALE, J.)