



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 385 OF 2024

Shrikant s/o Rambhau Jumale and others V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.S. Deshpande, counsel for applicants.

Mr. Ganesh Umale, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 11/06/2024.

1. Apprehending the arrest at the hands of police, in connection with Crime No. 142/2024 registered with Police Station Pimpalgaon Raja, Tq. Khamgaon District Buldhana for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicants is on the basis of report lodged by Suman Suresh Satav, on an allegation that deceased who was a son Deepak was having love affair with accused Priyanka Gajanan Jumale from last 4 to 5 years. The said relationship was disliked by Gajanan Namdeo Jumale, Prashant Rambhau Jumale, Vishal Gajanan Jumale, Shrikant Rambhau Jumale, and therefore, there was a dispute between the deceased and the present applicants and other co-accused. On 19/04/2024 when her son had been to Sawata Nagar, Mahadeo Mandir at 2.30 p.m. at that time, the applicants namely Shrikant Rambhau Jumale, Amol Sudhakar

Bombatkar i.e. applicant No.2, applicant No.3 - Prabhakar Sukhdeo Karangale, Applicant No.4-Vishnu Mahadeo Bombatkar and Applicant No.5 - Deepak Bhikaji Wankhede came there holding wooden logs in their hands and assaulted her son. Due to which, his son has sustained the injuries. Regarding the said incident, he has lodged FIR against the present applicants vide Crime No. 127/2024 under Sections 143, 147, 148, 323, 324 read with Section 149 and under Section 135 of the Maharashtra Police Act.

3. It is further alleged that the present applicants were physically and mentally harassing the deceased, on account of he is having love affair with the co-accused Priyanka. The said Priyanka has also filed a false FIR on the instigation of these applicants against her son, and therefore, her son was mentally disturbed. On 25/04/2024, he has committed suicide by hanging himself due to the harassment and abatement, at the hands of the present applicants. On the basis of said report, the police have registered the crime against the present applicants and the other co-accused.

4. Learned counsel for the applicants submitted that the other co-accused namely Gajanan, Prashant and Vishal are already released on bail by the learned trial Court. He submitted that FIR is lodged by the complainant on 04/05/2024 i.e. after 10 days of the incident. He further invited my attention towards the FIR lodged by Priyanka and submitted that Priyanka has alleged in the said FIR that deceased has outraged her modesty by holding her hand and

by following her. On the basis of FIR, the crime was registered against the deceased vide crime No.128/2024. He submitted that even accepting the allegations as it is, the custodial interrogation of the present applicants is not required as nothing is to be recovered from them. As far as the custodial interrogation is concerned, the applicants are ready to co-operate with the investigating agency. In view of that, they be protected by granting anticipatory bail.

5. In support of his contention, he placed reliance in the case of *Ashok Kumar Vs State of Union territory Chandigarh reported in 2024 SC OnLine SC 274*, wherein it is held that there is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie why the custodial interrogation of the accused is required for the purpose of investigation. On the basis of the above observations, he submitted that as the custodial interrogation is not required, the applicants be protected by granting anticipatory bail.

6. Learned APP strongly opposed the said application on the ground that statement of the witnesses shows that

deceased was assaulted by the present applicants prior to the incident of suicide. He pointed out from the statement of the witnesses that there was continuous ill-treatment at the hands of the present applicants to the deceased. The false FIR is filed against the deceased on the instigation of the present applicants by one of the accused and therefore, deceased has committed suicide. The custodial interrogation of the present applicants is required, the offence is of serious nature, for which the punishment upto the imprisonment of ten years is provided. Considering the manner in which the deceased was harassed by the present applicants and in the result of which, he has committed suicide, the application for grant of anticipatory bail deserves to be rejected.

7. Having heard learned counsel for the applicants and learned APP for the State, perused the recitals of the FIR. Admittedly, the FIR is lodged after 10 days of the incident. The deceased has committed suicide on 25/04/2024 and FIR is lodged on 04/05/2024. The informant has explained the delay. She has specifically stated that on the next day the last rites were performed on her son, and thereafter, her mental condition was not good and the other last rites to be performed on the deceased and therefore, she could not approach to the police station and lodged the FIR. The statements of the witnesses shows that the present applicants objected the alleged relationship between the Priyanka and the deceased, and on that count, the deceased was assaulted on 19/04/2024 by the present applicants. The statement further shows that there was dispute between the present applicants and the

deceased Deepak on that account. The statement of Mangesh Gajanan Satav, specifically shows that as there was love relationship between the deceased and the Priyanka therefore, the applicants were harassing the deceased on that count.

8. The statement of Yogesh Pandurang Shirsagar further states that as deceased was prosecuted by Priyanka on the instigation of the present applicants, she was under pressure. Moreover, he was assaulted by the present applicants and he was also threatened by them, and therefore, he committed suicide. Thus, the statements of the witnesses specifically states about the relationship between the present applicants and the deceased.

9. Learned counsel for the applicants submitted that there was no love relationship between the Priyanka and the present applicants, on the contrary, the said Priyanka has lodged the FIR against the deceased. On perusal of the FIR, it reveals that on 19/04/2024, the deceased was assaulted at about 2.30 p.m. During that night itself, at about 01.00 p.m. he has lodged the FIR regarding the said assault against the present applicants. On the basis of FIR, crime No. 127/2024 was registered. On the same day i.e. 20/04/2024 Priyanka has also lodged the FIR under Sections 354, 354-A, 354-B, 504, 506 vide crime No. 128/2024 alleging that the deceased has outraged her modesty on 17/04/2024, at about 8.30 p.m.. Thus, on perusal of both the FIRs, it reveals that subsequent to the FIR lodged by the deceased, this FIR was lodged by the Priyanka i.e. also after three days of the incident, and no

explanation is put forth by the Priyanka, for the said delayed FIR.

10. The allegation against the present applicants is that they have abated the deceased to commit suicide and they continuously harassed the deceased and therefore, the deceased has committed the suicide. Section 107 of the Indian Penal Code, 1860 defines the abatement - A person abets the doing of a thing, who instigates any person to do that thing; or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or intentionally aids, by any act or illegal omission, the doing of that thing.

11. Thus, in order to constitute an abatement, the abettor must be shown who have intentionally aided the commission of Crime. Here in the present case, the statements of the witnesses clearly shows that deceased was continuously harassed by the present applicants. He was also assaulted prior to the incident. He was threatened by the present applicants which drives him to commit suicide and therefore, he committed suicide. Admittedly, the considerations for grant of anticipatory bail and grant of bail under Section 439 are different. It is true that merely because, the custodial interrogation of the accused is asked by the prosecution is not sufficient to reject the bail application. At the same time, it is equally true that just because custodial interrogation is not

required, by itself cannot be ground to release an accused on anticipatory bail.

12. The Hon'ble Apex Court in the case of *Ashok Kumar* referred (supra) has observed that merely because the custodial interrogation is not required itself may also not be a ground to release an accused on anticipatory bail, if the offences are of serious nature.

13. It is further observed that a mere assertion on the part of the State while opposing the plea for the anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than a prima facie case, why the custodial interrogation of the accused is required for the purpose of investigation. Admittedly, the alleged offence is of a serious nature, wherein the deceased was not only assaulted by the present applicant but also he was continuously threatened which drives him to commit suicide.

14. Learned APP from the statements of the witnesses pointed out that custodial interrogation of the present applicants is required.

15. Considering the nature of the offence which is grievous in nature and this is not a fit case for grant of anticipatory bail, hence the present application deserves to be rejected. Accordingly, I proceed to pass the following order

The criminal application is **rejected**.

[URMILA JOSHI-PHALKE, J.]