



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
ANTICIPATORY BAIL APPLICATION NO. 772 OF 2025

Atul Madhav Joshi

Versus

The State of Maharashtra & Ors.

Mr. D. R. Markad for the Applicant.
Mrs. M. L. Sangit, APP for the State.

CORAM : ADVAIT M. SETHNA, J.
DATE : 30 JULY 2025

P. C.:

1. The Applicant has preferred this Application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 as he apprehends arrest.
2. The present proceedings relate to Crime No.0103 of 2025 registered by the M.I.D.C. Police Station, District Ahilyanagar. The F.I.R. is lodged on 21 February 2025 at 19:22 Hours, invoking Sections 85, 352, 108, 3(5) of the Bharatiya Nyaya Sanhita, 2023 ("**BNS**") *inter alia* against the Applicant/Accused persons. The Informant is one Dattatraya Ganpat Datir, aged 59 years, who is the father of the deceased. There are five accused persons in the F.I.R. out of which Accused No.1, who is the husband of the deceased is the Applicant before this Court.

Case in FIR:-

3. The case in the F.I.R. is briefly that the deceased was married to the Applicant on 26 September 2024. The deceased was working as 'Staff Nurse' at Vikhe Patil Hospital, Viladghat, Ahmednagar and used to stay at a Ladies Hostel. On the other hand, the Applicant was working as a Male Nurse at SNBT Hospital, Ghoti, Igatpuri, Nasik. The deceased used to visit her matrimonial home at Dadh Khurd, Taluka Sangamner, Dist. Ahmednagar during the holidays. Sometimes, she used to visit the maternal house but she

was not looking happy. When the Complainant asked the deceased, she expressed that she was not properly treated by the Applicant as the deceased suspected he is having an extra marital affair. She had informed this to the mother-in-law but she was abused and insulted. The mother-in-law used to send her to the house of sister-in-law, who used to make the deceased do all household work and ill-treat her physically and mentally. The Complainant retired from service in the month of September 2023. The Applicant and his parents used to insist upon the deceased to bring Rs.10,00,000/- from her father/parents to purchase a flat else the deceased was threatened with divorce proceedings. On 20 January 2025, at about 4.00 p.m., the Complainant got the information that his daughter i.e. the deceased was admitted to the hospital and accordingly he visited the said Vikhe Patil Hospital. The deceased was then in female surgery ward No.8 and was under treatment. When the Complainant met the deceased and on inquiry, she was informed that the Applicant had abused her over a phone call and threatened her for divorce. As she got angry on this, on 20 January 2025, at about 3.40 p.m., she poured kerosene on herself and set herself on fire. While undergoing treatment at the said hospital, she passed away at 2:11 a.m. on 7 February 2025. It was after her funeral that the Informant and the family who are in complete grief, shock and sorrow, lodged the report and the said F.I.R. came to be registered.

Submissions:-

4. Heard Mr. Markad, learned Advocate for the Applicant and Mrs. Sangit, learned APP for the State. With their assistance, I have perused the F.I.R. and the record available with the Court.

5. Mr. Markad, learned Advocate for the Applicant would first submit that Applicant is innocent and he has no involvement in the alleged offences as sought to be made out in the F.I.R. He would strongly allege that the marriage of the deceased with the Applicant was solemnized on 29 June

2024 and lasted only for about 6 to 7 months. During that duration, they were hardly staying together as she was working as a Nurse and residing at a Hostel at the Vikhe Patil Hospital, Viladghat, Ahmednagar, whereas, her husband was working as a Male Nurse at Ghoti, Igatpuri, Nasik, which are very distant from each other. In the given facts and circumstances, the ingredients of Section 108 of BNS would not be applicable *qua* the Applicant as there is no element of threat and/or inducement by the Applicant, which would lead the deceased to end her life. The Applicant has no criminal antecedents. The other accused persons/family members i.e. accused Nos. 2 to 5 have been granted anticipatory bail by the Trial Court. Custodial interrogation of the Applicant is not warranted in the given facts. Thus, the ABA of the Applicant deserves to be allowed.

Analysis:-

6. On a perusal of the FIR coupled with the case diary, it is pertinent to note that it is evident that the deceased and the Applicant whose marriage was short lived had strained relations. Not just that, the deceased consistently has taken a stand that she was harassed, abused, tortured physically and mentally by the mother-in-law and the husband. This is particularly significant as the reason attributable to such violent and unusual behaviour on the part of this Applicant appears to be primarily attributable to the suspicion of the deceased about some illicit relationship/extramarital affair that he had with another woman. It was when the deceased confronted the mother-in-law about her husband's conduct that the deceased used to be threatened to go to her parents' house. What is also significant is that pursuant to the retirement of the father of the deceased in September 2023, her husband and mother-in-law allegedly demanded an amount of Rs.10 lakhs from her so that they could buy a flat or else she was threatened to be divorced by the husband. She was admitted to Vikhe Patil Hospital on 20 January 2025 at around 4:00 p.m. when her

parents reached there to meet her and she was undergoing treatment, she confided in them and specifically mentioned that the husband abused her on the phone and threatened that he is going to divorce her and not cohabit with her.

7. According to her, it was in such state of anger and frustration on 20 January 2025 at around 3:40 p.m. before she was admitted to the hospital, and poured kerosene and set herself ablaze. What is significant is that what she confided in her parents on 20 January 2025, the day on which she committed suicide is further corroborated in her dying declaration which is on record in the case diary. The said dying declaration categorically refers to the quarrel she had with her husband and she poured kerosene on herself. Such dying declaration which is a part of the record of the prosecution appears to be recorded in presence of the Election Naib Tehsildar, Ahmednagar. The medical officer has endorsed that the victim was in complete conscious state while giving such dying declaration, where she specifically refers to the quarrel with husband. Even if there are inconsistencies in the dying declaration, the same would be appreciated in the context of Section 32(1) of the Evidence Act (Section 26 of BNS) during trial. It is trite law that there cannot be a mini trial conducted at a preliminary stage of anticipatory bail which is presently before the Court.

8. Considering the nature of accusations, the chronology of events and the consistency in the victim's version as noted above, the serious nature of accusations more particularly with regard to the allegation of the extra-marital affair of the husband, the monetary demand of Rs.10 lakhs made at the behest of the husband and the mother-in-law does not appear to be replete with falsity in the given set of facts and circumstances. In fact, the victim has confided about the fact of quarrel and ill-treatment mainly at the hands of the husband and mother-in-law to the parents on the day she committed suicide i.e. on 20 January 2025. The fact of such quarrel is also

expressly stated by her in her dying declaration which for the reasons noted above cannot be disbelieved or discarded at this preliminary stage of the proceedings.

9. Except for pleading that the husband and wife were staying separately, there is no submission made on behalf of the Applicant which would at this stage completely dislodge the aspect of abatement being an essential ingredient under Section 108 of the BNS. As laid down by the Supreme Court, there appears to be proximity between the nature of accusations and the suicide committed by her, in the given factual matrix. *Prima facie*, the fact of the deceased committing suicide by self immolation which could be attributable to the instigation inducement mainly by the husband cannot be completely brushed aside at this stage and requires thorough investigation.

10. For all the above reasons, custodial interrogation of the Applicant is warranted as he appears to be the closest link in the chain as far as the extreme step taken by the deceased who has also left behind a dying declaration. For the purposes of the in depth investigation and to elicit complete information which would be exclusively within the knowledge of the Applicant, it would require custodial interrogation of the Applicant, considering the parameters laid down by the Supreme Court in the case of *CBI Vs. Anil Sharma*¹. In my view, a *prima facie* case against the Applicant has been demonstrated by the prosecution at the preliminary stage within the contours of the decision of the Supreme Court in *Sumitha Pradeep Vs. Arun Kumar C.K. & Anr.*². The prosecution has expressed a reasonable apprehension of the Applicant influencing witnesses, tampering with the evidence, which cannot be ruled out in the given factual complexion. The conduct of the Applicant, according to the prosecution would indicate that he is attempting to flee from justice. In such facts and circumstances, to

1. 1997 AIR SC 3806

2. (2022) SCC OnLine SC 1529

unearth the truth as Mrs. Sangit, learned APP would urge that to do complete justice to the victim who ultimately succumbed, custodial interrogation would help in the discovery of truth, in the peculiar factual complexion.

11. As regards the contention of delay in lodging the FIR is concerned, in my *prima facie* view, such delay will not prejudice the Applicant in any manner. There is sufficient explanation for the delay, which has been noted and considered at this stage.

Conclusion:-

12. For all of the above reasons, the Anticipatory Bail Application is devoid of merit. It fails to inspire confidence and/or appeal to the conscience of the Court. Accordingly, the following order is passed:-.

O R D E R

- i. Anticipatory Bail Application No.772 of 2025 is **Rejected**.

[ADVAIT M. SETHNA, J.]