



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 1858 OF 2024

Bharat Revaji Kobani @ Bharatbhai Revajibhai Kokani

VERSUS

The State Of Maharashtra

Mr. M. S. Kulkarni, Advocate for applicant

Mrs. M. N. Ghanekar, APP for respondent/State

CORAM : R. M. JOSHI, J.

DATE : 09th January, 2025

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 0269 of 2024 registered with Nandurbar Taluka Police Station, Dist. Nandurbar for the offences punishable under Section 108 of Bharatiya Nyaya Sanhita.

2. First Information Report indicates that informant's father committed suicide in the backdrop that there were love relations between his brother and the daughter of present informant. Thereafter situation arose that they decided to lodge report against informant and his brother and parents. In the First Information Report, informant alleges that the mother of victim has demanded money for not lodging report. After the said demand was made, attempts were made to settle the dispute and for that purpose meeting was called of the respectable

persons from the area. This meeting was allegedly held in July 2024. On 28.09.2024, informant, his parents and brother were called by the police. It is alleged as far as present applicant is concerned, that he is police personnel working in Gujarat State Police. It is said that he abetted the commission of crime. It is alleged that whenever the informant or any other connected person had called the applicant, he told them to pay money as demanded by his sister and then only the offense would not be registered. On 29.09.2024, offence came to be registered. On the next day i.e. on 01.10.2024 deceased committed suicide.

3. Learned counsel for the applicant submits that only for the reason that the applicant is brother of co-accused Mangala, no allegations of the abetment to commit suicide or even extortion as sought to be argued on behalf of the learned APP can be accepted. It is his further submission that the First Information Report itself indicates that attempts were made for settlement between the parties. He drew attention of the Court to the report which does not claimed any demand being made by the applicant from informant or others. It is his submission that unfortunately deceased has committed suicide immediately after registration of crime which indicates that he was in all probability hurt immensely by registration of the crime against him and

family. It is his submission that merely because applicant happens to be police personnel no different yardsticks can be applied to the present case.

4. Learned APP vehemently opposed the application and she took lot of pains to convince this Court about prima facie involvement of the applicant in this crime. She drew attention of the Court to the statement which indicates that whenever applicant was called on phone, he asked for payment of money to his sister and only on payment said that offence would not to be registered. It is her further submission that the applicant being police personnel is influential being policeman and likely to interfere in investigation. She also makes grievance on instructions of the Investigating Officer that the applicant has not cooperated in the investigation and that his mobile phone is yet to be seized. Learned APP has drawn attention of the Court to the provision of Section 308(6) of Bhartiya Nyaya Sanhita to canvas that the offence of extortion is apparently made out against applicant and later on this offence is added against the accused persons. For these amongst other reasons dismissal of application is sought.

5. Merely because the applicant happens to be a police personnel on for that reason he cannot be put to disadvantageous position. The law applicable to others would apply to him with same

rigour. It is necessary to note that the alleged demand of money by sister of the applicant was quite for a long period. In such circumstances, this Court finds substance in the contention of the learned counsel for the applicant that the reason of commission of suicide by the deceased in all probability is the registration of crime against him and not for the alleged extortion/demand of money.

6. Prima facie this Court on going through the Investigation Papers finds that the present applicant being brother of the co-accused was in touch with her. The phone calls exchanged and conversation between them cannot be taken as collusion between them for the purpose of demanding of the money from the informant and others unless there is some more evidence to support this theory. Even otherwise statement of witness shows that as and when he was called, he was telling the persons about paying money to Mangalabai as she demanded. There is no demand independent or otherwise for the applicant of any money from the informant.

7. At this stage, this Court will have to see as to whether the custodial interrogation of the applicant would be necessary and whether he is likely to flee from justice. Even according to investigating agency, recovery of mobile of applicant is to be done and for that sake custody is required. Learned counsel for the applicant, on instructions, makes

statement that the applicant is ready to hand over the mobile phone to Investigating Office and remain present as and when called. As such custodial interrogation of applicant is not necessary. Liberty of the applicant was protected since October 2024. There is nothing on record to indicate that he himself misused the said liberty. He is not likely to abscond and would be available for trial.

8 . In view of above, application stands allowed in terms of interim order.

(R. M. JOSHI, J.)

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