

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3577 OF 2024

Furkhan Khurshid Ansari

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Mateen Shaikh a/w Mr. Sharif Shaikh, Ms. Muskan Shaikh, Jammu Shaikh, Mr. Kshirsagar Srinivas, Mr. Razique Shaikh for Applicant
- Mr. Sukanta Karmakar, APP for State

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 13, 2025

P. C.:

1. Heard Mr. Shaikh, learned Advocate for Applicant and Mr. Karmakar, learned APP for State.

2. Applicant - accused No. 3 is apprehending arrest in connection with C.R. No. 2291 of 2024 registered with Mumbra Police Station, Thane for the offences punishable under Sections 108 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short "**BNS**").

3. The case of the prosecution is that the victim and accused No. 1 got married on 11.11.2024 by performing Court marriage before the Sub-Registrar, Thane which is evident from the certificate issued and placed on record. Admittedly, family of the victim and accused are neighbours residing next to each other. The first informant is the mother of the victim. Admittedly, pursuant to the aforementioned

marriage between the victim and accused No. 1, the victim stayed in the house of her mother i.e. the first informant. According to the prosecution, the family of the victim were making arrangements for having a marriage ceremony between the victim and accused No. 1 on 15.11.2024 thereafter. However, on 12.11.2024, they were informed by accused No. 1 that his mother (namely accused No. 3) was not in support the said marriage. It is prosecution case that on 14.11.2024, accused No. 1 informed the complainant that his mother (accused No. 2) and accused No. 3 were not ready and willing to accept the marriage and his mother would harm herself otherwise. Thereafter, accused No. 1 switched off his mobile and became incommunicado.

4. The prosecution case further is that on 15.11.2024, accused No. 1 informed the victim on phone that he will not marry her pursuant to which the victim lodged a complaint against him on 16.11.2024 in the Police Station at Mumbra. Thereafter, it is alleged by prosecution that on 18.11.2024, the victim was summoned by accused Nos. 2 to 4 near their house and told that accused No. 1 will not get married to her and therefore, he should sign the divorce papers. The victim, thereafter, returned home. Further, it is prosecution case that on the same date at about 9.30 p. m., accused Nos. 2 to 4 visited victim's house and abused her. The aforesaid precursor incidents are stated in the complaint filed by the victim's mother, since on the following day i.e. on 19.11.2024 at

about 9.30 a. m., the victim consumed one bottle of rat poison and attempted suicide. She was admitted in the Civil Hospital where she was treated for two days but she succumbed ultimately on 21.11.2024.

5. Mr. Shaikh, learned Advocate for Applicant has drawn my attention to the FIR and would submit that considering the span of the dates which are stated therein between the date of marriage i.e. 11.11.2024 and the date of incident (19.11.2024) of consuming poison and more specifically adhering to the definition of abetment in which indictment of the Applicant has been made, *prima facie*, there is nothing on record attributing any act or role on the part of the present Applicant to have instigated or involved the mental process of the victim or aided her into committing the act committed by her. He would submit that in the present case, the Court should consider the fact that the victim herself was, admittedly, married earlier and she was separated from her previous husband which is stated in the FIR itself and therefore, possible cause of being told about non-acceptance of marriage may have affected her fragile mind but whether the Applicants could be blamed for that is the moot question to be answered.

6. Per contra, Mr. Karmakar, learned APP for the State has effectively attempted to persuade me to consider the sequence of events between 11.11.2024 and 18.11.2024 i.e. the span of seven days

and would contend that once the victim was confronted and told with the fact that she would not be accepted by the Applicant. Such an act would amount to commission of an act to intentionally put the victim into forcing her to take extreme step of committing suicide. He would vehemently argue and submit that since the victim was legally married by Court marriage on 11.11.2024 and she was not accepted by the Applicants in their house as the newly wedded wife of accused No. 1, that fact would undoubtedly affect her mental status and therefore he would submit that such action on the part of the Applicant should be viewed as a positive act on his part to instigate and aid the victim to push her to take the extreme step of ultimately attempting to commit suicide.

7. Having applied my mind to the rival contentions made by both the learned Advocates in so far as present accused No. 3 is concerned, it is seen that his role in the entire incident is to have accompanied accused Nos. 2 and 4 i.e. his mother and sister while meeting the victim / deceased on the previous date prior to the date of incident as per the case of prosecution. That apart there is no other role attributable to accused No. 3 i.e the Applicant herein. It is also seen that record of the case clearly shows that apart from alleging the presence of Applicant during the said meeting with the victim one day prior to the date of the incident, there is no other allegation

whatsoever against accused No. 3. There are no antecedents whatsoever in so far as accused No. 3 is concerned. Accused No. 3 is the younger brother of accused No. 1 whose wife committed suicide for which indictment of the four family members i.e. husband - accused No.1, mother, brother and sister is made.

8. Mr. Shaikh would draw my attention to the order dated 06.01.2025 passed in Anticipatory Bail Application No. 3557 of 2024 enlarging accused Nos. 2 and 4 and granting them anticipatory bail. Considering the role of present Applicant *qua* role of accused Nos. 2 and 4, it is *prima facie* seen that his role is much negligible and only to the extent of accompanying them during one of the visit as per the prosecution case itself. In that view of the matter, Applicant is granted pre-arrest bail on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 15,000/- each with one or two sureties in the like amount;
- (ii) Applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;

- (iii) Applicant shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00 noon until the Charge-sheet is filed and as and when called for by the investigating officer thereafter;
- (iv) Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

9. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. Application is allowed in the aforesaid terms and is accordingly disposed of.

11. All concerned to act on the authenticated copy of this order.

[MILIND N. JADHAV, J.]