

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3579 OF 2024

Arman Khurshid Ansari

.. Applicant

Versus

The Sr. Police Inspector,
Mumbra Police Station, Thane & Anr.

.. Respondents

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

.....
CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 13, 2025

P. C.:

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

2. Applicant - accused No. 1 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. Sonavane, 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 Applicants. 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. 1 is concerned, his role attributable to the incident is the fact that he informed the complainant pursuant to his marriage with victim that the arrangement for the marriage which her family was doing did not go down well with his family members as they were opposed to the same. The first interaction of Applicant- accused No. 1 on phone was on 12.11.2024 that is the day after the court marriage with the victim and thereafter the other attribute to the role of Applicant is the phone call

which he made to the complainant (mother of victim) when he informed her about the opposition to their marriage by his family members. Prosecution case thereafter alleges that Applicant switched off his mobile phone and stopped further interaction. It is seen that Applicant is a mechanic having his own shop of repairing two wheelers in Mumbra area itself. Merely attributing the fact that after making the phone call, Applicant's phone number was switched off cannot be held against the Applicant. Admittedly family of the victim and accused are neighbours residing next to each other. It is also seen that one day prior to the incident, complainant visited the house of the Applicant and confronted his family members as also the Applicant. In that view of the matter, I am of the opinion that there is no *prima facie* direct role attributable to the Applicant in so far as the incident is concerned. As observed and delineated herein above, it is seen that victim because of failure of her first marriage and she having married the Applicant in Court wanted their marriage to be accepted and worked out. The incident which occurred has not occurred after a time lapse but immediately within a few days after the date of marriage so as to attribute any role or conduct of Applicant before me or his family members. That apart it is an admitted fact on record that despite the Court marriage between Applicant and victim on 11.11.2024, victim did not stay in the Applicant's house which is an

admitted position on record. If that be the case and considering the fact that other family members - accused have also been enlarged on anticipatory bail by this Court, I do not see any reason as to why the Applicant should not be granted anticipatory bail. 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.

8. 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.

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

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

[MILIND N. JADHAV, J.]

Amberkar

RAVINDRA
MOHAN
AMBERKAR
Digitally
signed by
RAVINDRA
MOHAN
AMBERKAR
Date:
2025.01.13
19:05:14
+0530