

Amberkar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 136 OF 2025

Bapi Ashwini Jana

Applicant

.. (Accused No. 1)

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Vishal Patil a/w Mr. Afsar Ansari i/by Mr. Vishal Patil for Applicant
- Ms. Megha S. Bajoria, APP for State
- Mr. Mahesh Bandgar, API, Manpada Police Station

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 16, 2025

P. C.:

1. Heard Mr. Patil, learned Advocate for Applicant and Ms. Bajoria, learned APP for State.

2. Applicant - accused has filed the present Application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") in connection with Crime No. I-1361/2024 registered with Manpada Police Station, Thane City under Sections 85, 103(1), 108 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, "**BNS**").

3. Date of the demise of wife of the Applicant is the intervening night on 23.09.2024 and 24.09.2024. FIR is filed on 19.12.2024. Initially zero FIR was filed by the complainant who is the mother of

victim / wife of Applicant with Dispur Police Station (W), Midnapore, West Bengal. The place of the incident is Flat No. A-001, Kashimira Pride Building, Nandivali Manpada, Dombivli (E). FIR was lodged by the complainant on 24.09.2024 in West Bengal after she received a phone call at 06:30 a.m. in the morning which was made by her grandson i.e. son of the Applicant and victim. The FIR states that Applicant was married to the victim for the past 15 years and they had one son aged 13 years and one daughter aged 6 years. It is alleged in the FIR that relationship between the Applicant and the victim were strained and there were intermittent demands for money made by Applicant with the victim which ultimately led to the victim taking her own life by hanging and committing suicide. Complainant has held the Applicant responsible for harassment and resultantly leading to the victim taking the step of committing suicide. Investigation has been completed. During the investigation process, Section 108 of the BNS came to be added.

4. Mr. Patil, learned Advocate for Applicant would submit that the entire record if seen does not show the involvement of Applicant in the commission of the offence. He would submit that complainant has falsely implicated the Applicant in view of the demise of the victim who was her daughter. He would submit that Applicant and victim were happily married for the past 15 years and they did not have any

issue relating to any financial demand made by Applicant. He would submit that allegation in the FIR that Applicant demanded the amount of Rs. Two lacs is preposterous since the Applicant himself was working as a goldsmith and was financially well of. That apart he would submit that there is no specific role attributable to the Applicant, *inter alia*, leading to alleging that the Applicant committed any act of abetment which is borne out from the record. He would submit that the Applicant was working as a goldsmith in Kalbadevi area and he used to reach home very late in the night on most of the days. He would submit that even on the date of the incident i.e. the intervening night between 23.09.2024 and 24.09.2024, Applicant left his workplace much late after midnight at about 02:51 a.m. on 24.09.2023 in an Ola Cab which he and his friend hired to take them to their residence in Dombivli and they reached Dombivli at about 04:01 a.m. The statement of his friend who was with him is recorded. Bill of the Ola Cab is also placed on record. He would submit that the incident in question was discovered by his 13 year old son at 03:30 a.m. in the morning and he lowered the body of his mother / victim which was hanging to the fan by cutting the rope by a kitchen knife and thereafter he called the Society Secretary staying in the building and neighbours who gathered and attempted to take the victim to the hospital. It is only at that time after 04:00 a.m., Applicant returned

home and he was informed and the Applicant thereafter immediately called for an ambulance and took the victim to the hospital.

5. Record of the case has been seen by me. From the record, it is clear that the marriage between the parties took place on 27.07.2010 and there is no evidence or any allegation of ill-treatment or abuse which has been brought on record. Statement of the 13 year old son of the Applicant has been recorded. Though it may not have any evidentiary value as such to be considered at this stage but the said statement clearly corroborates the fact that Applicant was not present in the house at the time of the incident. It is stated by him in the statement that at around 12:30 a.m. at night, victim called the Applicant on his mobile phone and asked him when he would be coming and she was informed by the Applicant that he would be coming late at night. Thereafter he states that he heard some one talking on the phone at around 03:00 a.m. early in the morning and at 03:30 a.m. when he opened the bedroom door by force as it was bolted from inside by the victim, he found the victim hanging to the fan. Spot panchanama has been done. Statements of the witnesses have been recorded. Nothing incriminating has been found in the panchnama as also statements of the witnesses which would indict the role of the Applicant to show that there was any quarrel or issue or case of harassment of the victim. Children of the Applicant are staying

with him at present and he is providing them care and support. Applicant apprehends arrest and therefore has moved this Court.

6. I have perused the Police file with respect to the present case and the entire material on record including the postmortem report. Nothing incriminating has been found in the police file as also in the statements of witnesses recorded which is against the Applicant to show that Applicant may have abetted in commitment of the said offence. The fact that the Applicant reached Dombivli at 04:01 a.m. is clearly ascertained from the receipt of the Ola Cab trip and the bill details show that Applicant boarded the vehicle at 02:51 a.m. from Kalbadevi and reached Dombivli at 04:01 a.m.. Considering the postmortem report and the fact that victim was discovered handling at 03:30 a.m. by her elder son, there is nothing incriminating found at this stage to hold that the Applicant may be responsible for the death of the victim. Needless to state that investigation shall be proceeded and progressed in accordance with law.

7. In view of the above, 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. 25,000/- 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 thereafter as and when called for by the Investigating Officer;
- (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.

Amberkar

[MILIND N. JADHAV, J.]

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by RAVINDRA
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