

Neetaben (Anita) Rameshkumar Chauhan vs State Of Gujarat on 24 March, 2023

Author: Umesh A. Trivedi

Bench: Umesh A. Trivedi

R/CR.MA/2850/2023

ORDER DATED: 24/03/2023

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION NO. 2850 of 2023

With

R/CRIMINAL MISC.APPLICATION NO. 2943 of 2023

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NEETABEN (ANITA) RAMESHKUMAR CHAUHAN

Versus

STATE OF GUJARAT

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Appearance:

JAYDEEP H SINDHI(9585) for the Applicant(s) No. 1

A R KADRI(7330) for the Respondent(s) No. 1

MR SHAHNAWAZ PATHAN(6024) for the Respondent(s) No. 1

MR. K.M.ANTANI, APP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE UMESH A. TRIVEDI

Date : 24/03/2023

COMMON ORAL ORDER

[1] RULE returnable forthwith. Learned APP Mr. K.M.Antani, waives service of notice of rule for and on behalf of the respondent - State as also learned advocate Mr. A.R.Kadri, waives service of notice of rule for and on behalf of the original first informant.

[2] Both these applications are filed by Neetaben (Anita) Rameshkumar Chauhan and Rameshkumar Motilal Chauhan respectively, who happen to be the parents-in-law of the deceased - Kusumlata, who committed suicide at her matrimonial home on 06.12.2022, praying for an R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 order of Anticipatory Bail in connection with an offence registered at C.R.No.11191027220607 of 2022 with Karanj Police Station, Ahmedabad City for the offence punishable under Sections 306, 304B, 498-A, 354A, 354D and 114 of the Indian Penal Code as also under Sections 4 and 7 of the Dowry Prohibition Act.

[3] Mr. Jaydeep Sindhi, learned advocate for the applicants in respective applications, submitted that as such marriage of their son took place with deceased - Kusumlata approximately 4 years prior to the date of incident and since then, she was staying with her husband and the parents-in-law at Ahmedabad. He has further submitted that the allegations levelled in the FIR with regard to cruelty or harassment and demand of dowry are nothing but an improvement in the case and as such no such events took place, as claimed. He has further submitted that on deceased - Kusumlata committing suicide, her parents staying in Rajasthan were informed about the same and they rushed down to Ahmedabad. Pursuant to the suicide by hanging committed by Kusumlata, an accidental death case came to be registered vide No.30 of 2022 under Section 174 of the Code of Criminal Procedure, 1973. He has further submitted that pursuant thereto the statements of the first informant himself as also the neighbours and the relatives of the first R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 informant were recorded on 07.12.2022, 09.12.2022 and 10.12.2022 where no any allegation of either cruelty, harassment or sexual harassment or stalking is made against father-in-law i.e. applicant of Criminal Misc. Application No.2943 of 2023, in those statements. He has further submitted that if at all any such cruelty or harassment, as claimed in the First Information Report, was administered by the applicants prior to the filing of even First Information Report, even to the statements recorded pursuant to an accidental death case, that too, by Assistant Commissioner of Police, Ahmedabad, they would have certainly said so in the said statements. However, it is submitted that no such facts have been narrated in the said statements and First Information Report clearly stated that he doesn't doubt anyone for the present and since he is in shock, he doesn't want to say anything further but after post death rituals are over and discussing with family members, whatever statements he wants to give he may give the same, which suggests that as such allegation levelled in the FIR is nothing but an afterthought. [3.1] He has further submitted that if there is any allegation of proximate cause of cruelty, harassment or dowry, which led her to commit suicide, immediately pursuant to the death case, when statements were recorded, the first informant would have so stated based on R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 information derived from his another daughter to whom, as claimed, deceased called her a day prior to the incident informing the same. Therefore, he has submitted that prima-facie this is case of probable false implication for no case made out at the initial stage. Therefore, he has submitted that the applicants are parents-in-law and they be granted anticipatory bail in connection with the aforesaid offence. [4] As against that, Mr. A.R.Kadri, learned advocate for the first informant submitted that the applicants have committed a very serious offence and they have actively abetted commission of suicide by Kusumlata and there was a proximate cause, as a day prior to the incident, she called her another sister informing about demand of dowry as also Four Wheeler, which has led her to commit suicide, and thereby it is a case of abetment to commit suicide, and therefore, the applicants be refused an order of anticipatory bail in their favour. Over and above that, he has further submitted that since there are serious allegations of sexual harassment and stalking against the father-in-law, he may not be granted anticipatory bail. He has further submitted that at the time of recording of statement, pursuant to an accidental death case, since his daughter has committed suicide, they were in shock and therefore, immediately no FIR was filed and it cannot be then said that no immediate action is taken. He R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 has further submitted that under a great shock, the father is not expected to file immediate FIR and therefore, on the ground of late filing of it, no anticipatory bail be granted to the applicants. He has further submitted that no mother would commit suicide, having

a child of 4 months, unless she is fed up with the cruelty and harassment to an extent and therefore, when the said suicide is within 7 years of her marriage, a presumption can be raised against the applicants and they be refused anticipatory bail. [4.1] He has further submitted that coincidentally on 05.12.2022, another daughter of first informant - Gaurita was at Rajasthan and on 05.12.2022 deceased - Kusumlata called from her mobile phone to her and informed that her in-laws are demanding Rs.5 lakh in cash as also Four Wheeler and if it is not provided, they may further harass her. He has further submitted that because of that demand and harassment, deceased committed suicide and that was the proximate cause for the same and therefore, it is clear case of abetment of suicide by the deceased and therefore, no anticipatory bail be granted to the applicants. [5] Mr. K.M.Antani, learned Additional Public Prosecutor for the respondent - State has produced the papers of investigation and statements recorded pursuant to an accidental death inquiry for the perusal of the Court. He has submitted that, considering the seriousness R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 of an offence and availability of presumption under the law, an order of anticipatory bail in favour of the applicants may not be granted. He has further submitted that there is an allegation against the father-in-law of sexual harassment as also the stalking, he may not be granted anticipatory bail.

[6] Having heard the learned advocates for the appearing parties as also the learned Additional Public Prosecutor and going through the FIR as also the impugned order and papers of investigation, it reveals that before 4 months prior to the incident, deceased delivered a girl child and she came back at matrimonial home on 15.11.2022. As such, the allegations levelled in the FIR, though constitute an offence without reference to the specific date or time or particular period, very general allegations are levelled in respect of demand of dowry and Four Wheeler. The allegation of sexual harassment and stalking by the father-in-law is also made without it being complained prior to the present FIR at any point of time to anybody. In the FIR, it is claimed that another daughter of first informant was called by the deceased a day prior to the date of incident and informed her about the cruelty and harassment and demanding dowry of Rs.5 lakh and Four Wheeler on a phone is improved upon by another daughter - Gaurita to be a WhatsApp call so as to not to R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 furnish any evidence in respect thereof. Otherwise, normal call would be reflected in a CDR and that may be proved to be fatal against the prosecution and cleverly after 4 days of the FIR, she had improved upon her story about the telephone call made by the deceased to be a WhatsApp call. If that is so, the first informant himself would have on 12.12.2022 when filed FIR would have so stated in First Information Report as a day prior to the incident when his another daughter was at Rajasthan, the said fact was informed by the deceased. Any event occurred a day prior to the incident would be very fresh in memory so as to keep it beyond any doubt.

[7] So far as commission of suicide is concerned, there is no doubt about the same despite postmortem is performed of the dead body at the instance of the first informant. However, allegation of sexual harassment and stalking, if at all it is so, as soon as it is being made, no father would stay silent. Immediately, he would take up the issue and try to see that either it is not repeated or husband and wife stayed separate from the parents-in-law. Nothing of that sort is ever done by the first informant, who has filed an FIR after discussing the same with the relatives, that too, after 6 days of the incident. There is no point in discussing anything, if at all the allegations, that

on 05.12.2022 i.e. a day R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 prior to the incident, deceased complained of cruelty and harassment in respect of demand of dowry in cash as well as the Four Wheeler. If it is not held to be an afterthought, at this stage, certainly it creates doubt about the genuineness thereof. Furthermore, with the additional affidavit, mother-in-law has produced screenshots of the mobile phone used by the husband, on which, deceased - wife shared certain links pertaining to post marital depression and she wrote that she is feeling like that. Even the Google search history of the deceased's cell phone revealed about different websites pertaining thereto being searched by the deceased even after she came back at the matrimonial home. Therefore, if not concluded, prima-facie, there may be such sort of depression under which she might have committed suicide, more importantly, the statement of neighbours, more particularly of one Pankti Asitbhai Shah recorded on 10.12.2022 i.e. prior to the filing of the First Information Report reveals that deceased was staying very happily in the matrimonial house and she had not witnessed any louder voice from the house and relations in between the in-laws and the wife i.e. deceased, were very cordial. [8] Considering the overall circumstances, as stated hereinabove, and keeping in mind the provisions of the law, including the presumption available, without concluding finally, the issue as narrated R/CR.MA/2850/2023 ORDER DATED: 24/03/2023 hereinabove, I deem it fit to enlarge the applicants on anticipatory bail. [9] In the result, the present applications are allowed. The applicants are ordered to be released on bail in the event of their arrest in connection with FIR being C.R.No.11191027220607 of 2022 with Karanj Police Station, Ahmedabad City, on executing a personal bond of Rs.10,000/- (Rupees Ten Thousand Only) each with one surety of like amount on the following conditions that they:

- (a) shall cooperate with the investigation and make themselves available for interrogation whenever required;
- (b) shall remain present at concerned Police Station on 28.03.2023 between 11.00 a.m. and 2.00 p.m.;
- (c) shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- (d) shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- (e) shall at the time of execution of bond, furnish the address to the investigating officer and the court concerned and shall not change his residence till the final disposal of the case till further orders;
- (f) shall not leave India without the permission of the concerned trial court and if having passport shall deposit the same before the concerned trial court within a week; and R/CR.MA/2850/2023 ORDER DATED: 24/03/2023

(g) it would be open to the Investigating Officer to file an application for remand if he considers it proper and just and the learned Magistrate would decide it on merits;

[10] Despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The applicants shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if, ultimately, granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicants, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order. [11] Rule is made absolute to the aforesaid extent. Direct service is permitted TODAY.

(UMESH A. TRIVEDI, J) Lalji Desai