

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

CRIMINAL APPEAL NO.620 OF 2021

SK.Amanulla @ Jilani s/o Mohammad
Yusuf

- APPELLANT

VERSUS

1) The State of Maharashtra
Through Narsi Police Station,
District Hingoli and Anr.

- RESPONDENTS

Mr.DM Shinde, Advocate for appellant;
Mr.SS Dande,APP for Resp.No.1-State;
Mr.P.P.Tapse, Adv. For Resp.No.2.

CORAM : V.K.JADHAV AND
SANDIPKUMAR C.MORE,JJ.

DATE : 31st January, 2022.

PER COURT :

1. The appellant-accused is seeking anticipatory bail in connection with Crime No. 102/2021 registered with Narasi Police Station, Tq. and District Hingoli, for the offences punishable under Sections 306, 506 of IPC and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the Atrocities Act. As his application with similar prayer bearing Bail Application No.401/2021 came to be rejected by Additional Sessions Judge (Fast Track Court) Hingoli, vide order dated 20.11.2021 in terms

of provisions of Section 14-A of the Atrocities Act, this appeal has been preferred.

2. Learned Counsel for the appellant-accused submits that name of the present appellant is not mentioned in the FIR and the allegations have been made mainly on co-accused Sangita, who is now released on regular bail after arrest. The learned Counsel submits that there are allegations made in the complaint that due to harassment at the hands of said co-accused Sangita, with whom deceased Namdeo had allegedly developed illicit sexual relations, the deceased had committed suicide. However, merely on the basis of the presence of the present appellant at the house of co-accused Sangita at the relevant time, he has been implicated in connection with the present crime as an accused. The learned Counsel further submits that deceased Namdeo had committed suicide in the house of co-accused Sangita. There is no connecting evidence against the appellant. In the given set of allegations custodial interrogation of the appellant is not required. There are no criminal antecedents. The appellant is ready to abide by the conditions and also ready to co-operate the

Investigating agency to carry out further investigation into the crime, if any.

3. Learned Counsel for Respondent No.2 submits that the appellant was also threatening the deceased to withdraw the complaint in respect of the crime No. 83/2020 registered with Narasi police station District Hingoli. The learned Counsel submits that the appellant was also threatening deceased Namdeo for recovery of his amount owed by co-accused Sangita and unless that recovery is made, he was not allowing deceased Namdeo to continue with his illicit relations with co-accused Sangita. The learned Counsel further submits that deceased Namdeo died otherwise than under normal circumstances at the house of co-accused Sangita. In view of the same, custodial interrogation of the appellant is required to find out the truth.

4. Learned APP submits that though name of the present appellant is not mentioned in the FIR, however, during the course of the investigation, it has been revealed that the appellant was also threatening the deceased for one or the another count

and he was actually present in the house of the co-accused Sangita at the time of suicidal death of deceased Namdeo. The deaf and dumb son viz. Shankar Namdeo Pawar of the deceased has described the same as person present in their house. Even on that day, at the instance of co-accused Sangita, her own son had gone to purchase the liquor bottles for deceased Namdeo and co-accused Sangita. The learned APP submits that custodial interrogation of the appellant is required.

5. We have carefully gone through the allegations made in the complaint, the contents of the complaint and also perused the police papers. It appears that the concerned Medical officer, who has conducted the post-mortem examination on the dead body of deceased Namdeo, has opined that the death is due to hanging. Further more, he has also noticed ligature mark on the neck of the deceased. Further, the deceased Namdeo himself had disclosed to his family members including the informant that he had illicit sexual relations with co-accused Sangita and she was threatening him on one or the another pretext. He was taking stress because of the continuous threats from the co-accused Sangita.

Deceased Namdeo at no point of time disclosed the name of the present appellant as a person who was also giving trouble to him. Further, we have carefully gone through the statement of said deaf and dumb boy. He was not in a position to give his statement and thus, his statement was recorded with the help of expert teacher. It further appears that the said deaf and dumb boy has merely described the person having two big eyes having horn on his head and on the basis of which it has been inferred that the said person is none else than the present appellant. Further more, though learned Counsel for Respondent No.2 has vehemently submitted about FIR No.83/2020, however, the learned Counsel is not in a position to explain as to how the present appellant is having concern with the persons named in connection with the said crime. Admittedly, the appellant is not an accused in connection with the said crime. It is not clear as to why the appellant wanted the deceased Namdeo to withdraw the said complaint, which is the subject matter of Crime No. 83/2020. There are no antecedents. In the given set of allegations, we do not think that custodial interrogation of the appellant is required. Even

assuming that the appellant was present at the time of suicidal death of the deceased Namdeo at the house of co-accused Sangita, however, prima facie, opinion about cause of death is indicating the suicidal death and in view of the same, the presence of the appellant-accused in the house of co-accused Sangita at the relevant time may not be relevant. Thus, considering the entire aspect of the case, we are inclined to confirm the interim order granting anticipatory bail in favour of the appellant. It is not necessary to mention here that the observations made herein above are only for the purpose of deciding this appeal and it is for the Trial Court to consider the case on its own merits. Hence, following order, -

ORDER

i. The interim anticipatory bail granted by this Court vide order dated 6th December, 2021 stands confirmed on the same terms and conditions.

ii. The Criminal Appeal is hereby allowed and disposed of accordingly.

(SANDIPKUMAR C.MORE)
JUDGE

(V.K.JADHAV)
JUDGE