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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3550 OF 2021

Kunal Chabu Doke] .. Applicant
vs.
State of Maharashtra & Anr.] .. Respondents

Mr.Shantanu Phanse for the Applicant.

Mr.S.V. Gavand, APP for State-Respondent No.1.

Mr.Jaideep Thakker, for Respondent No.2.

CORAM : BHARATI DANGRE, J

DATE : 17TH AUGUST, 2022.

P.C.

1] The Applicant, a young boy aged 20 years, is charged with the offence punishable under Section 306, 376(2)(1), 504, 506 of the Indian Penal Code read with 4 and 8 of the Protection of Children from Sexual Offences Act, 2012. He came to be arrested on 06.03.2021 when the subject CR No.56/2021 was registered on the complaint lodged by the mother of the deceased.

2] In the exhaustive complaint lodged by the mother of a minor girl aged 16 years, 3 months, 28 days, she states that the deceased had passed her 10th standard and was admitted in a college in Mulund and persuading her education in 11th Standard. She had disclosed to her mother that she had developed friendship with a boy through Instagram

and it was narrated by her that he was harassing her. On 27.02.2021 the complainant called the Applicant to her house and asked him not to indulge with her daughter. On 02.03.2021, it is alleged that, the deceased was abused by the Applicant, as a result of which she was disturbed. On 03.3.2021 she hanged herself in the bedroom pursuant to which the mother of the victim lodged the complaint and CR was registered. Her mobile phone on being checked refer to WhatsApp chat with the Applicant at 8.55 p.m. and this refer to a result of pregnancy kit, where the deceased girl expressed her apprehension about she having been conceived and she tried to find solution with the Applicant, but it appears that he was unbothered and had used abusive language.

The WhatsApp chat is placed on record alongwith the application, and it refers to certain messages reflecting indifferent approach of the Applicant, on being informed that the deceased was pregnant.

3] On investigation being set into motion, autopsy was carried out and report placed on record specifically on examination of the private part record as under “no signs of pregnancy”. The cause of death has been ascertained as “asphyxia due to hanging”.

4] In the aforesaid unfortunate incident, the victim girl took extreme step on being revealed that she had missed her periods by two weeks and on the basis of some pregnancy test where it was revealed to her that she was pregnant. Hence, she established contact with the Applicant on her WhatsApp and immediately when he expressed indifferent approach, she took the extreme step of hanging herself in the house.

5] The investigation is now completed and entire material is compiled in the charge sheet. The fact that the deceased was pregnant is falsified by the Postmortem report which reveal that she was not carrying any pregnancy. Anxious, with thought of conceiving, the deceased attempted to establish contact with the Applicant and on noticing his unexpected response, she made up her mind to commit suicide.

6] The Applicant, at the time of incident, was merely 19 years old and he has reacted in an indifferent manner which can be seen from the WhatsApp chat. The chat also reveals that the two were sharing proximate relationship. In order to invoke offence under Section 306 of the IPC i.e. abetment to commit suicide, it is necessary to establish its ingredients, being instigation/incitement for the deceased to commit suicide. The sudden reaction of the Applicant to the news of pregnancy, may fall short of it.

Considering the young age of the Applicant, his incarceration on the completion of investigation is unwarranted. He shall ultimately face the consequences of his acts, when he shall face the trial.

7] It is made clear that the observations made above are restricted for determination of the application and the trial Court in any way shall not be influenced by the said observations, when it try the Applicant in a trial.

Hence, the following order :

(a) Application is allowed.

(b) Applicant – Kunal Chabu Doke shall be released on bail in connection with C.R.No.56 of 2021 registered with Chitalsar Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(c) The applicant shall report to Chitalsar Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon till framing of charge and thereafter as per directions of the concerned Court.

(d) The Applicant shall not make any attempt to contact the family members of the deceased in any way and any attempt on his part, would result in reverting protection granted by this Court.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(f) The Applicant shall regularly attend trial, on every date, unless he is exempted.

[BHARATI DANGRE, J]