

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 224 OF 2015

Kantu Revanu Jadhav

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. V. V. Purwant a/w S. S. Wakure for Applicant
Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

RESERVED ON : 24th FEBRUARY 2015

PRONOUNCED ON : 4th MARCH 2015

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 1 of 2015 registered at Gandhinagar Police Station, Dist. Kolhapur for offence punishable under section 306, 116, 323, 352, 355, 504, 506 r/w 34 of Indian Penal Code.

2) Applicant herein is working as rector of Rajashri Shahu Ashram Shala, Pachgaon, Taluka Karveer, District Kolhapur. On 30/12/2014, Suraj Pawar a

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student studying in 9th standard in the Ashram Shala was admitted in Laxminarayan Janseva Hospital with 80% burn injuries. The Head Constable of Rajarampuri Police Station recorded the statement of the injured. He has disclosed that he was being harassed by his two classmates namely Sanjay Pawar and Rajesh Rathod who were juvenile in conflict with Law. It is alleged that the rector of the said hostel i.e. present applicant was also harassing him. He had complained to his class teacher Mr. Jagtap, but Mr. Jagtap had not taken it seriously. Sanjay Pawar and Rajesh Rathod had, without any reason alleged that Suraj had committed theft. They were being supported by rector. On 30/12/2014, at 11.00 am, when he went to attend the class, Sanjay Pawar and Rajesh Rathod and the rector told him not attend the school and therefore, he got scared and went to Pachgaon. Without giving a second thought, he had poured kerosene and immolated himself. It is specifically stated that his both hands, legs, abdomen, chest, neck were burnt.

3) It is pertinent to note that there is no endorsement of doctor on the said statement. It is further pertinent to note that the said statement appears to be signed by the victim. In fact, recitals of the statement would show that both

his hands were burnt as he had sustained 80% burn injuries. Signature of the victim is doubtful. On 31/12/2014, statement of the injured was recorded by Nayab Tahsildar/Executive Magistrate, in which it was disclosed to the Executive Magistrate that rector of the said school had taken the wires of CCTV camera and had kept it near his bags. He used to level false allegation of theft against him. Rector had brutally assaulted him two weeks ago. That Sanjay Pawar and Rajesh Rathod used to bring money from outside and used to give it to Jadhav Sir and thereafter, Jadhav Sir and Rajesh and Sanjay used to have party. That the rector used to humiliate him and abuse him by referring to his black complexion. That the rector used to refer to him as moron. He was fed up of it and was constrained to commit suicide. He had specific complaints against rector Jadhav.

4) It is pertinent to note that in spite of the fact that there were allegations against applicant and a cognizable offence was made out, no offence was registered till 9.45 pm of 02/01/2015 against present applicant. The victim succumbed to the burn injuries on 08/01/2015 at about 1.25 pm.

5) On 03/01/2015, API of Gandhinagar Police Station issued a notice to the present applicant under section 41 (A) of Code of Criminal Procedure, 1973 and had asked him to remain present before the police on 05/01/2015. On 05/01/2015, statement of the applicant was recorded. He has stated before the police that he used to look after the children in the Ashram school. He has stated that on 27/12/2014, at about 7.00 pm, Suraj had expressed his desire to go home and therefore, applicant had called upon the paternal uncle of Suraj namely Appa Pawar and asked him to take Suraj home. Applicant had further disclosed that on 04/01/2015, he was at his native place Akkalkot and he had read in the newspaper about Suraj having immolated himself. He has specifically stated that he has got no role to play in the alleged incident.

6) Papers of investigation would reveal that on 03/01/2015, Investigating Officer had recorded the statement of Appaji Pawar who is paternal uncle of deceased Suraj Pawar. He had disclosed to the police that his nephew had come home and complained that rector and two boys harassed him by calling him a theft. That they abused him, assaulted him and made fun of him in the school. He used to come home crying, complaining against present applicant.

That Appa Pawar had dropped him back to school. On 30/12/2014, Suraj had immolated himself. Upon inquiry, by the uncle, he had specifically stated that on that day, i.e. on 30/12/2014, when he went to the classroom, present applicant and Sanjay Pawar & Rajesh Rathod had humiliated him by calling him thief. They had told him that instead of pursuing education, he should go and die. He therefore, came home and immolated himself. It is pertinent to note that there is no evidence worth its name that on 27/12/2014, deceased had gone home. It is apparently clear that applicant had misled the investigating agency. On 09/01/2015, supplementary statement of Appaji Pawar was recorded. In the said statement, he has alleged that Head Master of the said school, Tanaji Ghorpade and class teacher Vijay Jagtap should be held responsible for the suicidal death of Suraj. It prima facie appears that he was being won over by present applicant. The fact that applicant had given false statement to the police that Suraj had gone home on 27/12/2014, is not only misleading, but the possibility that he would concoct the record to that effect cannot be ruled out. Papers of investigation clearly indicate that Suraj had gone to attend his classes on 30/12/2014. Investigating officer has recorded the statements of classmates of deceased Suraj and all the classmates

had categorically stated that Suraj was humiliated, abused and assaulted by the present applicant. One of the student has specifically stated that co-accused Sanjay Pawar & Rajesh Rathod belong to Lamani Community. They used to harass Suraj on the ground that he happens to be Pardhi. All the students have stated that the applicant used to brutally assault Suraj at midnight.

7) It is therefore, apparent that the applicant in spite of holding a responsible post of rector, has not only misused his powers, but was not sensitive to tender minds of student who belong to deprived class and hailed from family belonging to economically backward class.

8) Learned counsel for the applicant submits that it cannot be said that applicant had abetted the commission of suicide. He had no intention that student should die and therefore, it cannot be said that applicant has committed offence punishable under section 116 or 306 of Indian Penal Code. According to the learned counsel, all the offences alleged against the applicant, except 306 of Indian Penal Code are bailable offences and

therefore, applicant deserves pre-arrest bail.

9) A man is responsible for the probable consequences of his own act. In the present case, it appears from the record that the applicant and the co-accused were creating such a situation that the deceased should be so humiliated that he is left with no option but to abandon his education and leave the hostel. The victim was driven to a state of helplessness. His suicide was a probable consequence of the abetment. It was the duty of the applicant to prevent the other two students/co-accused from committing an offence of ragging and harassing the victim but instead he had encouraged the co-accused. Although the effect of the act committed by the applicant is distinct from the act intended, the applicant would be liable for the act committed. Upon perusal of the papers of investigation, this Court is of the opinion that the applicant and the co-accused deserve to be prosecuted under the provisions of Maharashtra Prohibition of Ragging Act, 1999 also.

10) Investigation is in progress. Upon perusal of papers of investigation, it also appears that investigating agency is under pressure and that there are

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serious attempts to tamper with the evidence.

11) The very fact that after issuing notice under section 41 of Code of Criminal Procedure, 1973, applicant has made an attempt to mislead the investigating agency by stating that deceased had gone home on 27/12/2014, is sufficient to reject the application seeking pre-arrest bail. The conduct of the applicant was such that a young boy with no resources and nobody to pay heed to his sensitivity or the mental and physical trauma which he was going through at the hands of present applicant are sufficient to hold that applicant could be held liable for offence punishable under section 305 of Indian Penal Code since applicant had created such circumstances that poor boy had no other option.

12) It is pertinent to note that he had complained about the atrocities of the present applicant to his class teacher who did not pay any heed. He had complained about it to his family members who had asked him to ignore the conduct and concentrate on studies. He was time and again being sent to the hostel. The paternal uncle of the deceased had also attempted to convince the

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present applicant and other accused not to blame the deceased and not to abuse him. The boy had no other alternative to overcome the humiliation, abuses and assaults at the hands of present applicant. Hence, for the reasons mentioned herein above, this Court is of the opinion that custodial interrogation of the applicant is imperative.

ORDER

- (i) Application, being sans merits, stands rejected.
- (ii) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)