

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1463 OF 2017

Ramesh Laxman Pawar ...Applicant.

vs.

The State of Maharashtra ...Respondent.

Mr. M.S.Mohite i/by M.V.Thorat for the Applicant.
Smt. Rutuja Ambekar, APP. for the State.

CORAM: A.S.GADKARI, J.

DATE : 8th September, 2017.

P.C.

1. The applicant is apprehending arrest in CR No. 477 of 2017 registered with Yewat Police Station, Taluka Baramati, District Pune for the offences punishable under Sections 306, 504, 506 read with 34 of the Indian Penal Code.

2. Heard the learned counsel for the applicant, the learned APP. and perused the record of investigation.

3. The first information report is lodged by Balasaheb Manikrao Dake, real brother of the deceased namely Rahul Manikro Dake, on 28.7.2017 stating that, deceased was working as a Jr. Technician (Linesman) with M.S.E.B. Yewat. That, on 4.2.2017 his brother met with an accident and was on leave. That he again joined service on 27.4.2017 at Yewat. That, on 25.7.2017 at about 6.00 p.m. Rahul committed suicide at his tenanted premises at Chandanwadi, Taluka

Daund by hanging himself. The police found suicide note dated 25.7.2017 in his pocket, implicating the present applicant and one of applicant's disciple as the person instrumental in driving the deceased to commit suicide. In the premise, initially ADR NO.94/2017 under Section 174 of the Cr.P.C. and subsequently the present crime is registered.

4. The learned counsel for the applicant submitted that the applicant is working as an Assistant Engineer in MSEB, Yewat and as the deceased was not performing duty properly as required, he made report to the superior authorities for the same on 7.6.2017. That, on 26.7.2017, a show cause notice for initiating disciplinary action was also issued by the superior officer to the deceased. He submitted that on 10.7.2017 the deceased submitted his reply wherein there is no allegation of harassment at the hands of the present applicant. He further submitted that the deceased had also sought transfer from Yewet to some other place on the ground of family problems. In the said transfer request letter also the deceased did not mention any harassment by the applicant. He therefore, submitted that in view of the said documents, it cannot be said that the applicant caused abatement to commit suicide to the deceased. He submitted that in the normal course, as the deceased was not performing duty upto the mark and

expectations the applicant made report to the superior officer and also might have scolded the deceased being his subordinate staff. He submitted that as there is no material on record to show that it is the applicant who abetted and instigated the suicide of the deceased. In support of his contention he relied on two decisions of the Supreme Court namely, Madan Mohan Singh Vs. State of Gujarat and anr. reported in (2010) 8 SCC 628 and Netai Dutta vs. State of W.B. reported in (2005) 2 SCC 659 He lastly submitted that the applicant is an Assistant Engineer in Government employment and therefore, he may be protected by way of pre-arrest bail.

5. The record of investigation clearly indicates that in the suicide note dated 25.7.2017 the deceased has categorically stated that, he was not committing suicide at his own free will but it is only because of the constant mental harassment, filthy abuses and threat of suspension from service administered by the applicant he was taking said step to commit suicide. He has further stated that, the applicant is the only and only reason, for whose harassment he was fed up and therefore taking the step to end his life. The suicide note also mentions that the applicant and his beloved disciple caused lot of harassment to him. The police have recorded statements of co-workers of the deceased. The said co-workers

have categorically stated that after resuming on duty the deceased made a request to the applicant to give him office work as due to accident he was unable to climb the poles and perform his duty. However, the applicant used to harass him on duty and used to tell him to leave the job if he is unable to perform his duty. He also used to tell him to go home by leaving the job. The witness has further stated that the deceased had disclosed to it that he is unable to bear the harassment at the hands of the applicant and was fed up with life. The version of the deceased is further corroborated by his application made for transfer from Yewat to other place i.e. at Daund (Daund Subdivision) which is annexed at Page-22 to the present application. The witness has stated that because of the harassment by the applicant, the deceased had sought transfer from the said place. The contention of the learned counsel for the applicant that, the deceased did not make reference of harassment at the hands of the applicant in the said transfer letter cannot be accepted for the simple reason that deceased being an employee of the lower rank cannot be expected to mention his grievances against the superior officer in respect of administering threats to him about suspension from duty and harassment, however the record of investigation prima facie reveals that it is under the circumstances

mentioned earlier, the deceased had opted for such a transfer.

6. It is to be noted here that the decisions of the Supreme Court relied upon by the learned counsel for the applicant mentioned above are rendered on the facts involved in the said cases and are not applicable to the facts of the case in hand. In the present case, the evidence collected by the police clearly indicates that apart from the suicide note there is sufficient material on record in the form of statements of witnesses to indicate that the applicant was and is instrumental firstly in constantly harassing and secondly instigating the deceased to commit suicide. It is only because of the constant and persistent harassment and the instigation effected by the applicant to the deceased he had taken the extreme step to end his life. It is to be noted here that, the investigation of present crime is at nascent stage and the police are to trace out the other person namely "disciple of applicant" mentioned in the suicide note and unless the applicant is custodially interrogated, entire truth behind the crime cannot be unearthed.

7. In view of the above, I find that, there are no merits in the application and the same is rejected.

8. At this stage, the learned counsel appearing for the applicant submitted that his client is intending to test the

correctness of the present Order before the Hon'ble Supreme Court and the present order be stayed for a period of three weeks from today. At his request, the effect of the present order is stayed for a period of three weeks from today.

(A.S.GADKARI, J.)