

NSC.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.839 OF 2018

Yunus Ismail Shaikh	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr.Shirish Gupte, Senior Counsel a/w Mr.Satyavrat Joshi, for the Applicant.

Ms.J.S.Lohokare, A.P.P for the Respondent No.1-State.

Mr.S.V.Marwadi, i/b Ms.T.M.Khamkar, for the First Informant.

I.O – K.V.Nigade, Additional S.P., CID, Konkan Bhavan, Navi Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th APRIL, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-13 of 2018 registered with the Arnala-Sagari Police Station, Palghar, for the alleged offences punishable under Section 306 r/w 34 of the Indian Penal Code.

3. Learned Senior Counsel for the applicant submits that taking the prosecution case as it stands, no offence as alleged under Section 306 of the Indian Penal Code is disclosed, qua the applicant. He submitted that even the FIR does not disclose the exact nature of allegation, as against the applicant, or the applicant's role in the commission of the offence. He submitted that the applicant, a Senior Police Inspector, attached to Virar Police Station, Palghar in discharge of his official duty, registered a complaint being C.R.No.I-623 of 2017, as against Vikas (deceased), Amit (deceased) and the complainant in the present case, and as such, no offence could even have been registered against the applicant, for acts committed in the course of official duty, without obtaining sanction. He further submitted that the applicant was also arrested in C.R.No.I-18 of 2018, registered with the Manikpur Police Station, alleging the very same offence i.e. Section 306 r/w 34 of the Indian Penal Code, for abetting the suicide of Vikas and that the applicant has been enlarged on bail.

4. Learned APP opposed the application. She has tendered the statement of Amit Jha (deceased), recorded by the Police Constable, in the presence of the Doctor. She also relied on the transcript of the video

recording of Amit (deceased) before he committed suicide.

5. Learned Counsel Mr.Marwadi, supported the learned APP.

6. Perused the papers. According to the complainant-Vinaykant B. Jha, his two sons, Vikas Jha and Amit Jha committed suicide on 10th November, 2017 and 20th January, 2018, respectively, as they were falsely implicated by the applicant and others. It appears that one Mithilesh Jha had lodged a complaint/FIR, (being C.R.No.I-623 of 2017), as against Vikas, Amit and the present complainant on 9th November, 2017, alleging offences punishable under Sections 354, 324, 323, 504, 506, 34 of the Indian Penal Code. It appears that prior thereto, an NC was lodged, however, no allegation of Section 354 of the Indian Penal Code was disclosed. According to the prosecution, at the behest of co-accused, the Applicant registered the false complaint of Mithilesh Jha and also demanded money and hence, Vikas committed suicide. It appears that before committing suicide, Vikas, video recorded the reason for committing suicide and made allegations as against the applicant and others. Pursuant thereto, an offence under Section 306 r/w 34 was

registered with the Manikpur Police Station, being C.R.No.I-18 of 2018, against the Applicant and others. The applicant has been enlarged on bail in connection with the said C.R. i.e C.R.No.I-18 of 2018, registered with the Manikpur Police Station. Pursuant to Vikas's suicide, Amit Jha, (also deceased), his brother made several representations and followed up his grievances with the Deputy Superintendent of Police, Virar, Additional Superintendent of Police, Vasai, Superintendent of Police, Palghar, Special Inspector General of Police, Konkan Range as well as the Chief Minister. It appears that Amit had also filed a Petition in this Court, seeking certain reliefs. On 20th January, 2018, Amit also committed suicide. Amit, after consuming poison, video recorded the reason for his suicide. Amit expired on 22nd January, 2018. A perusal of the statement of Amit, recorded by the Police Constable shows that Amit had alleged that the applicant had not done any enquiry and hence he had complained to the applicant's superiors, however, the superiors quarreled with him, as a result of which, he consumed poison. The transcript of the video recording is also more or less similar to the statement recorded by the police. It appears that Amit was under an impression that he will not get justice and that the superior officers were not listening and hence he had taken the said decision. The applicant

admittedly has been enlarged on bail in the other C.R., in which Vikas committed suicide.

7. *Prima facie*, it is doubtful whether in the facts, Section 306 of Indian Penal Code is disclosed, qua the applicant. Considering the nature of allegations, as against the applicant, further custody of the applicant is not necessary. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- ii) The Applicant shall attend the Andheri Police Station/office of the CID, Crime, Konkan Region, as and when called;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

- iv) The Applicant shall not enter the Palghar District. However, liberty is granted to the applicant to apply for modification of the said condition;
- v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- vi) The Applicant shall co-operate in the conduct of the trial.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)