

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.427 OF 2018

(Sumit s/o Sudhakar Badki Vs. State of Maharashtra thr. PSO PS Ganeshpeth,
Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Mohgaokar, Advocate for Applicant.
Shri S.S. Doifode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 13th JULY, 2018.

The applicant is apprehending arrest in Crime 214/2018 registered with the Police Station Ganeshpeth, Nagpur for offence punishable under section 306 of the Indian Penal Code.

The first submission of the learned counsel for the applicant Shri Mohgaokar is that the suicide note refers to one Sumit Patki while the name of the applicant is Sumit Badki. The other submission, and more formidable one, is that even if the material on record is taken at face value, the element of *mens rea*, which is a *sine qua non* ingredient of section 306 of the Indian Penal Code, is not discernible. The accusation, if the alleged suicide note is to be considered at face value, is that one Sumit Patki was harassing the deceased for money. The investigation has revealed that the applicant was demanding the amount of B.C. from the deceased. *Prima facie*, it is not possible to

observe, even *prima facie*, that the applicant, assuming that he is the person named in the alleged suicide note, intended to drive the deceased to commit suicide.

The application is allowed.

The interim order dated 22.06.2018 is confirmed with the modification that the applicant shall attend Police Station Ganeshpeth, Nagpur as and when required by the Investigating Officer.

JUDGE