

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1194 OF 2020

VISHWAJIT BALAPPA LAMJANE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Barde Parag Vijay
APP for Respondent/State: Mr. S.W. Mundhe

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CORAM : MANGESH S. PATIL, J.

DATE : 09.02.2021

PER COURT :

The applicant is seeking bail in the event of his arrest in connection with Crime No.212/2020 registered Murum Police Station, Dist. Osmanabad for the offence punishable under Section 306, 323, 504 read with Section 34 of the Indian Penal Code.

2. Briefly stated that the FIR has been lodged by the father of the applicant. The deceased is his mother. It is alleged that the applicant had lend some money to her brother and was insisting the deceased to see to it that the money was returned. For this reason he used to even assault her at times. He had assaulted her on four occasions for same reason. It is then alleged that in the previous night when the deceased was present in the house of her brother in law the applicant arrived there under influence of liquor, poured water on her person and abused her. He even dragged her to a nearby temple. It is alleged that in the next morning she committed suicide.

3. The learned advocate for the applicant would submit that it is a matter of abetment of suicide. Necessary prerequisite for constituting abetment within the meaning of Section 107 of the Indian Penal Code are conspicuously missing. Even if the allegations are accepted at their face

value at the most the applicant can be blamed for assaulting his mother. The circumstances are short of depicting any *mens rea* on his part to incite his mother to commit suicide. There could be several other reasons for her to commit suicide. The FIR has been lodged belatedly, after about a month of the incident. Even in the remand report submitted by the Investigating Officer before the Magistrate a different version of the informant can be found wherein he stated that the applicant had demanded Rs.100 to the deceased and when she refused to pay he assaulted her. The learned advocate would further rely upon the decision of the Supreme Court in the case of **Gurcharan Singh Vs. State of Punjab ; (2020) 10 Supreme Court Cases 200**. Lastly, the learned advocate would submit that going by the allegations custodial interrogation of the applicant is not necessary. He is already been protected by way of ad-interim relief and the same may be continued.

4. The learned APP opposes the Application. He submits that the offence is serious. It is not a straight forward matter. The deceased was the mother of the applicant and the FIR has been lodged by his father. At this juncture there is enough material to reveal that the applicant had persistently ill-treated the mother and for the self same reason even in the previous night he had abused her and poured water on her person and dragged her when she was sitting in the house of her brother-in-law. This conduct of the applicant *prima facie* is sufficient to infer that he had incited her and finding no other way to come out of the humiliation the deceased has committed suicide. There are statements of the witnesses about the episode which had taken place in the previous night. This much of the material at this juncture should be sufficient to refuse bail to the applicant.

5. I have carefully gone through the papers. To begin with, it would be necessary to reproduce the observation of the Supreme Court in the case of Amalendu Pal V. State of West Bengal, referred to and relied upon in the case of Gurcharan Singh (supra). Paragraph No.17 reads thus:

“17. While dealing with a case of abetment of suicide in *Amalendu Pal vs. State of West Bengal*, Dr. M.K. Sharma, J. writing for the Division Bench explained the parameters of Section 306 IPC in the following terms: (SCC p. 712, paras 12-13)

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.

13. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC.”

A bare perusal of this observation would clearly indicate that the evidence of the cruelty and the harassment meted out to the victim should be sufficient to infer that she was not left with any other alternative but to end her life. The aspect of incitement would play a vital role.

6. Going by the allegations persistent conduct of the applicant towards his deceased mother is eloquent enough at this juncture to draw an inference about he having incited her to commit suicide when in a public view he had insulted her by pouring water on her person abusing her and dragging her in the previous night. The proximity between the two episodes is also important and is sufficient to infer that the deceased was perceiving about having no other way out but to commit suicide because of the humiliation in the previous night. There are statements of the witnesses to

this incident as well.

7. Considering all the aforementioned facts and circumstances, the applicant is not entitled to the discretionary relief of the anticipatory bail. The Application is rejected.

(MANGESH S. PATIL, J.)

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