

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2102 OF 2021

Sarjerao Sadashiv Kumbhar	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

...

Mr.Shailesh Kharat for the applicant.
Mrs.A.A. Takalkar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 5th JULY 2021

P.C:-

1 Heard Mr.Kharat, learned counsel for the applicant and Mrs.A.A. Takalkar, APP for the State.

2 One Sanjay Kumbhar committed suicide on 22nd may 2021 and left suicide note where he scribe that he had given hand-loan of Rs.50,000/- to one Arun Kumbhar and when he sough return of the money, it is the present applicant who threatened him with dire consequences. Sanjay, the deceased specifically hold the applicant responsible for instigating him to commit suicide and request an action to be taken.

3 The incident resulted in registration of C.R.No. 252 of 2021 with Hatkanangle police station on 24th may 2021 invoking section 306 read with Section 34 of the IPC against give accused which include the applicant as accused no.2. The deceased committed suicide by hanging himself and the note was recovered from his pocket. When the note is perused, on its production by the learned APP, it do not provide any details except it mention that he had given the hand loan to one Arun Kumbhar and the amount was not received back by him. It is alleged that on that count, the applicant and one Datta Kumbhar had threatened him with dire consequences if the money is demanded back by visiting his house. It is also alleged that the applicant and Datta had abused him. There is no mention about the date, time or details about this visit. The deceased further write that thereafter his daughter visited for delivery and therefore, he was postponing his determination to commit suicide and after her delivery, he has committed suicide and he also named Subhash Kamble and Lalit Kamble who had threatened him on telephone.

4 In absence of the particulars contained in the suicide note, about when the loan was advanced, when it became due and payable, when was the threat given by the applicant and other co-accused, the suicide note is silent. For the purpose of attracting the offence of abetment to commit suicide punishable under

Section 306 of IPC, the allegation should establish the circumstances connecting the act of committing suicide to some act of the accused as contemplated under Section 107 of the IPC, either instigating any person, or engaging with one or more person in any conspiracy, or intentionally aiding by any act or illegal omission. The aforesaid acts must be in close proximity to the commission of suicide and this is precisely absent in the complaint indicting the applicant. In absence of any specific allegations of harassment, or any instigation being alleged by any positive act on the part of the accused and proximate to the time of commission of suicide, prima facie, the conviction in terms of Section 306 cannot be secured. For attracting Section 306, 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 certain act facilitating the act of suicide.

The co-accused Datta Kumbhar is already released on bail. The suicide note is already recovered and is subject to proof in the trial. The applicant was remanded to police custody for three days and the investigation against him is complete. The co-accused with the similar allegations being released on bail, the applicant is also entitled for a similar relief. The observations being prima facie in nature, will not influence the trial Judge while determining the guilt of the accused. Hence, the following order :-

O R D E R

- (a) The Applicant - Sarjerao Sadashiv Kumbhar in connection with FIR No. 252 of 2021 registered with Hatkanangle police station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer.
- (c) The Applicant should not tamper with evidence.
- (d) The Applicant shall make himself available as and when required by the Investigating Officer.

The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J