

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

CRIMINAL APPEAL NO. 250 OF 2020

Deepak Tanaji Deshmukh

....Appellant

Versus

The State of Maharashtra & Anr.

....Respondents

....

Mr. Omkar G. Nagwekar for the Appellant.
Mr. Sachin K. Hande for Respondent No. 2.
Smt. Sharmila Kaushik, APP for the Respondent No.1-State
PSI, V. C. Zinjurke, Saswad Police Station, Pune Gramin.

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CORAM : SANDEEP K. SHINDE, J.

DATE : 20th SEPTEMBER 2021

P. C. :

1. This appeal under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, challenges the order dated 12th February, 2020 passed in Criminal Bail Application No. 454 of 2020 by the Additional Sessions Judge, Pune, and seeks pre-arrest protection in connection with C. R. No. 19 of 2020, registered with Saswad Police Station, Pune, for the offences punishable under Sections 306 of Indian Penal Code, Section 39 and 45 of Money Lending Act r/w Section 3(2) (va) of the Prevention of Atrocity (SC and ST) Act.

2. Heard the learned Counsel for the Appellant, Complainant and the learned APP for the state.

3. Prosecution case in brief, is that the deceased Santosh Kamble

was working with M/s. Sawali Management Consultancy Private Ltd as a plumber. His monthly salary was around Rs.12,256/-. He married to the Complainant in 2004. He committed suicide on 11th January, 2020. His wife filed the report on 22nd January, 2020. The Complainant belongs to Scheduled Caste. Complainant would allege that her husband was addicted to liquor; he was unhappy in his life and frustrated. He had borrowed Rs. 5000/- from the Appellant, as hand loan. The deceased had left a suicide note. I have perused it. Apparently the suicide note suggests that the deceased was depressed, dejected and downhearted; for more than a reason. He was preoccupied with alcohol. The suicide note states that the Appellant used to call on him, for the repayment of loan and it was one of the reasons for which he felt dejected. Suicide note was found in the house.

4. The learned trial Court declined the pre-arrest protection to the Appellant and therefore this appeal is filed under Section 14 -A of the SC and ST Act. Pending application, interim pre-arrest protection was granted by this Court on 27th January, 2021 on certain terms and conditions.

5. The learned Counsel appearing for the Appellant would submit that the complaint does not imply that the Appellant recurringly called upon the deceased to pay back loan, with intention to drive him to commit suicide. The submission is that the complaint does not even suggests that the alleged recurring calls for repayment of loan drove the deceased to commit suicide. Submission is that ingredience of Section 107 of IPC are fully absent. Besides, it is contended that the Appellant

has attended the police station as directed by this Court. He had never indulged to business of money lending in his past and being permanent resident of Village Wanwadi. His presence for the trial can be secured by imposing secure conditions.

6. per contra the learned Counsel for the Complainant would submit that the first evaluation of the First Information Report makes out a prima facie offence against the Appellant for instigating the deceased to commit suicide. Learned Counsel for the Complainant would submit that the allegation makes out an offence punishable under Section 3 (2) (va) of SC and ST Act, which punishable with imprisonment for life, hence, being serious offence, pre-arrest protection may not be granted.

7. Learned APP for the State would submit that the First Information Report makes out the prima facie offence punishable under Section 306 of the Indian Penal Code r/w Section 3 (2) (va) of the SC and ST Act. She would submit that the offence being punishable imprisonment for ten years, Application be rejected.

8. I have carefully considered the submissions of respective Counsel and also perused the suicide note. The first evaluation of the First Information Report and the suicide note suggest that the Appellant was depressed in his life for several reasons. Although the deceased in the suicide note had stated that he had borrowed money from the Appellant and the Appellant was asking repayment of loan, but that itself would not amount, instigation or force, which left with no option to the deceased but to commit suicide. The suicide note indicates that the

deceased was addicted to liquor and was feeling dejected and nervous for more than reasons. It may also be stated that there are no past events to show that the Appellant was indulging in money lending. Additionally the Appellant has co-operated in the investigation. In consideration of the facts of the case, prima facie, a case is made out for granting pre-arrest protection to the Appellant. The appeal is allowed and hence the following order:

ORDER

- (a) In the event of arrest of the Applicant in connection with C. R. No.19 of 2020, registered with Saswad Police Station, Pune, shall be released on executing the P.R Bond in the sum of Rs. 25,000/- with one or more sureties in the like sum.
- (b) The Applicant shall report to the Investigating Officer of the concerned Police Station on 27th September, 2021 and 01st October, 2021 and thereafter as and when if required, between 11:00 a.m. to 01:00 p.m. and shall continue to attend for six months and co-operate in the investigation.
- (c) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.
- (d) The Applicant shall furnish particulars of his residence and mobile contact number and/or change of residence or mobile details, if any from time to time to the Investigating Officer of the concerned Police Station.

9. The appeal is accordingly allowed and disposed of.

10. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

[SANDEEP K. SHINDE, J.]