

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

ANTICIPATORY BAIL APPLICATION NO.1455 OF 2021

1. Subhash Dattaram Laad,
2. Sachin Vasant Gavande,
3. Madhuri Maruti Kamtekar
 @ Madhuri Mahesh Dabholkar,
4. Shrikant Gangadhar Kotale, &
5. Vasudev Chavdas Choudhary. Applicants
Versus
The State of Maharashtra Respondent

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WITH

ANTICIPATORY BAIL APPLICATION NO.1468 OF 2021

Nitin Balaji Rekulwad Applicant
Versus
The State of Maharashtra Respondent

Mr. A.S. Khandeparkar, Advocate a/w. Rajdeep Gude, Rohit P. Mahadik i/b. Khandeparkar & Associates, for the Applicants in ABA/1455/2021.

Mr. Omgashad B. Boinwad, Advocate for the Applicant in ABA/1468/2021.

Mr. Ajay Patil, APP, for the State in ABA/1455/2021.

Smt. J.S. Lohokare, APP for the State in ABA/1468/2021.

CORAM : SARANG V. KOTWAL, J.

DATE : 25th JUNE, 2021
[Through Video Conferencing]

P.C. :

1. In both these applications a common order is

passed because they arise out of same C.R. and same investigation. For the sake of convenience, the applicants are referred to by their names.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.102/2021 registered at Malvan Police Station, District Sindhudurg on 30.5.2021 under Sections 306 of the Indian Penal Code.

3. The case pertains to commission of suicide by one Vishal Hange, who was working as Assistant Agriculture Officer at village Golvan, Taluka Malvan, District – Sindhudurg. He has committed suicide on 29.5.2021. The allegations are that he was driven to commit suicide because of the pressure exerted by all these applicants. Applicant Subhash was Sarpanch of the village, the applicant Sachin was the superior in his office, the applicant Madhuri was Gramsevak and the applicant Shrikant was actually working in a different village, the applicant Vasudev was a Supervisor and the applicant Nitin was the Talathi. The allegations pertain to one more person Vijay Kamble, who is already

arrested.

4. The FIR was lodged by mother of the deceased on 30.5.2021. She has stated that the deceased was working as mentioned earlier in village Golvan on his post. In February, 2021 the deceased had complained that the applicant Gavande was causing him harassment and was humiliating him in front of others and, therefore, he wanted to leave his job. He had some dispute with his room partner Vijay who is already arrested as mentioned earlier. The FIR goes on to mention that the deceased had informed her about the harassment caused by all these persons. On 2.5.2021, the deceased had come to his home town on leave. At that time he had told the informant that all these applicants were forcing him to make false record and as he did not comply, he was abused. On 17.5.2021, he resumed his duties. Between 15th to 26th May, 2021 he had told the first informant that the applicant Nitin (Talathi) was not cooperating in carrying out panchnamas and was not giving 7/12 extracts. He had also threatened the deceased that he would lodge a false complaint with reference

to Nitin's wife. The deceased had told the informant that he was feeling helpless and it was difficult for him to carry on. On 29.5.2021 the deceased committed suicide by hanging himself in his room. There was a suicide note holding all these applicants responsible for his act. On this basis, the FIR was lodged.

5. Heard Shri A.S. Khandeparkar, learned Counsel for the Applicants in ABA/1455/2021, Shri Omgashad Boinwad, learned Counsel for the Applicant in ABA/1468/2021, Shri Ajay Patil, learned APP for the State in ABA/1455/2021 and Smt. J.S. Lohokare, learned APP for the State in ABA/1468/2021.

6. Learned counsel for the applicants submitted that the deceased was entrusted with carrying on panchnamas and to record the loss suffered by the villagers because of the cyclone. However, he was not diligent in his job and, therefore, his superiors were directing him to do his job properly. This will not amount to causing any act within the meaning of Section 107 read with 306 of IPC. He submitted

that the deceased was unable to cope with the pressure of the work. The only fault of the applicants was that they were telling him to complete his work. This will not amount to abetment to commit suicide.

7. Shri Khandeparkar relied on the judgment of the Hon'ble Supreme Court in the case of **M. Arjunan Vs. State represented by Inspector of Police**, as reported in **2018 DCLS (SC) 1349** in support of his contentions.

8. Learned APPs strongly opposed this applications. Smt. Lohokare relied on the statement of the maternal uncle of the deceased in which he had blamed all these persons. These allegations recorded in that statement are similar to those mentioned in the FIR. She submitted that in February, 2021 the deceased had made a written complaint to his superiors about the behaviour of the applicant Gavande and the harassment caused by him.

9. She submitted that two more ladies from the office had also complained against the applicant Gavande. She

submitted that the applicants roles are serious and only because of their harassment the deceased had committed suicide.

10. I have considered these submissions. Undoubtedly, the deceased had named all the applicants in his suicide note. Therefore, to his mind they were responsible for the suicide. However, whether those acts alleged against the present applicants would amount to abetment to commit suicide is a different issue. The suicide note does not elaborate this, against all the applicants. However, the statement of the maternal uncle of the deceased, and the first informant, throws some light on the apprehension entertained by the deceased in his mind regarding the behaviour of the applicants and the harassment caused by them.

11. It appears that all these accused are in some way connected with that particular grampanchayat and the triggering point was about various panchnamas and other work which the deceased had to complete after the cyclone.

12. There is a reasonable possibility as suggested by Shri Khandeparkar that all these applicants were only telling him to complete the job and, therefore, perhaps he did not cope with the pressure of the work. However, that would be a matter of investigation. It would also be necessary to investigate whether he was forced to carry out false panchnamas. But, even then the judgment cited by Shri Khandeparkar comes to his aid to contend that the offence may not be under Section 306 of IPC. The relevant portion of that judgment is reflected in paragraphs-7, 8 and 9, which read thus:

“7. As pointed out by the High Court, of course PW-1 to PW-5 have spoken about the borrowing of money by the deceased and also the execution of the promissory note. The sheet anchor of the prosecution’s case to prove the guilt of the accused is the suicide note (M.O.1)-written by the deceased. On perusal of suicide note (M.O.1), it is seen that in M.O.1 the deceased has written about the financial difficulties faced by him and his inability to meet the financial crunch and also his inability to repay the same. The tenor of M.O.1 only shows that the deceased was subjected to pressure for payment

and was facing the financial difficulty. In M.O.1 (letter) there is nothing to indicate that there was instigation by the appellant-accused which had driven the deceased to take the extreme step of committing suicide.

8. The essential ingredients of the offence under Section 306 I.P.C. are: (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C.
9. In our considered view, in the case at hand, M.O.1-letter and the oral evidence of PW-1 to PW-5, would not be sufficient to establish that the suicide by the deceased was directly linked to the instigation or abetment by the appellant-deceased. Having advanced the money to the deceased, the appellant-accused might have uttered some abusive words; but that by itself is not sufficient to constitute the offence under Section 306 I.P.C. From the evidence brought on record and in the facts and circumstances of the case, in our view the ingredients of Section 306

I.P.C. are not established and the conviction of the appellant-accused under Section 306 I.P.C. cannot be sustained.”

13. In my opinion this judgment applies to the facts of this case. At this stage it would not be proper to hold conclusively whether the applicants are guilty or not. But sufficient doubt is created about their participation. There does not appear to be *mens rea* as submitted by Shri Khandeparkar entertained by any of these applicants having nexus to the act of commission of suicide.

14. The step taken by the deceased is undoubtedly unfortunate, but, from the allegations it is not seen that the applicants intended that he should commit suicide and towards achieving that goal he was harassed. In this view of the matter, custodial interrogation of the applicants would not be fair. It would cause irreparable damage to them. The investigation can go on without their arrest.

15. All these observations made in this order are

restricted to passing of this order and these observations shall not influence the investigation and the possible trial. With these observations, following order is passed:

ORDER

- (i) In the event of their arrest in connection with C.R.No.102/2021 registered at Malvan Police Station, District Sindhudurg, the applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties each in the like amount.
- (ii) The applicants shall attend the concerned police station as when called and shall cooperate with the investigation.
- (iii) Anticipatory Bail Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)