

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2589 OF 2021

Ganesh Suresh Landage .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Aniket U. Nikam with Mr. Aashish Satpute and Mr. Vivek Arote
for the Applicant.

Mr. S.H. Yadav, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 17TH AUGUST, 2021.

P.C:-

1. The Applicant came to be arrested on 14/07/2020 in connection with C.R. No.442 of 2021 registered with the Bhosari Police Station, District Pune, for offences punishable under Sections 306, 323, 506 of the IPC.

2. On 14/07/2021, one Amarja Sachin Palkar reported about her brother Tejas, aged 23 years, committing suicide and she attributes the Applicant with abetment of suicide.

3. The informant states that her brother Tejas was residing at

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Pimpalgaon by renting a room and he was engaged by Ganesh Suresh Landage (present Applicant) at his petrol pump. On 13/07/2021, she received a telephone call from her father, who informed her that the petrol pump owner, with whom Tejas was working, had called him up and informed him about some misappropriation of amount by Tejas and the owner of the petrol pump had threatened to institute a case. The father of the informant and the deceased requested her to find out what the owner was talking about.

4. After the information was received, the informant asked her cousin to visit the room of Tejas and the informant and her husband spoke to him about the statement of the owner of the petrol pump and they assured that whatever is the allegation, they would deal with it and, if any misappropriation is alleged, they would make the necessary payment. However, the deceased repeatedly said that he will speak to his father, but he did not reveal what had exactly transpired. Tejas did not return home from the night of 12/07/2021 and his phone was not reachable. The cousin of the informant reported that Tejas had hanged himself in his house and, thereafter, on being taken to the hospital, he was declared brought dead.

The informant refers to a chit written by her brother Tejas, where he scribes an amount of Rs.30,000/- towards testing, Rs.10,000/- towards cash and Rs.40,000/- towards advance due and payable by him to the Applicant. He expresses his apology by stating that he was to return the amount, but the Applicant was not in a mood to consider his request.

5. On the basis of the aforesaid allegations, the Applicant is arraigned as an accused for abetting suicide of Tejas. Section 306 of the IPC has been invoked and the Applicant came to be arrested.

6. Perusal of the chit/note scribed by the deceased, which has been placed before me by learned A.P.P. and forms part of the investigation papers, reveals that the deceased owed an amount to the Applicant and he had sought sometime for repayment of the same. The deceased expressed his apology to the Applicant and all his family members for his extreme step. The Applicant is alleged to have abetted the suicide of Tejas. The genuineness of the suicide note is, of course, a matter of investigation and, even if it is accepted as written by the deceased, it does not indicate any instigation at the instance of the Applicant. Abetment, which has to be understood in terms of Section 107 of the IPC would require instigation or intentional aid or any facilitation in commission of the act on part of the accused person. Even if a person commits suicide and attributes it to the humiliation suffered by him, it cannot be said that there was any instigation. The Apex Court in case of *Madan Mohan Singh v. State of Gujarat* reported in *(2010) 8 SCC 628* as well as in the case of *Sanju @ Sanjay Singh Sengar v. State of Madhya Pradesh* reported in *(2002) Cri. L. J. 2796*, has set out the legal position and, in order to attract the offence of abetment to suicide, the least that would be required to be seen and to be established by the prosecution is that the accused could reasonably foresee that because of his conduct, the victim was almost certain or at least quite likely to commit suicide. In absence of such an intention,

when the accused can reasonably foresee or expect a person to take the extreme step, he cannot be charged for having committed the abetment of suicide, even if the suicide has been committed as a result of some act attributed to the accused. The utterance of the words such as '*go and die*', though humiliating, have been held not amount to instigation and no offence of abetment of suicide is attracted.

7. The legal position being well settled, on account of humiliation, if the deceased has taken the extreme step and since he has admitted that some amount was due and payable by him to the Applicant and if he had scolded or confronted him on that count and reported the same to his father and threatened him of an action, *prima facie*, the said act cannot fall within the meaning of abetment within the purview of Section 107 of the IPC.

8. The Applicant, therefore, deserves his release on bail subject to the condition that he will continue to render his co-operation to the Investigating Agency in completing the investigation. The Applicant is, therefore, released on bail subject to the following stipulation.

ORDER

- (a) The Applicant - **Ganesh Suresh Landage** shall be released on bail in C.R. No.442 of 2021 registered with the Bhosari Police Station, District Pune, 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 and the Applicant should not tamper with evidence.

(d) The Applicant shall attend to the Bhosari Police Station, District Pune as and when called by the Investigating Officer.

9. The Application is allowed in the aforestated terms.

10. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]