

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

ANTICIPATORY BAIL APPLICATION NO.955 OF 2020

Sahebrao Keda Ahire .. Applicant
Vs.
The State Of Maharashtra .. Respondent

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Mr. Aniket Ujjwal Nikam a/w Piyush Toshnival, Amit Icham, Mr. Vivek Arote i/by Mr. Aashish Satpute, Advocate for Applicant.

Mrs. M.R. Tidke, A.P.P. for the State-Respondent.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 23rd FEBRUARY, 2021**

PC.

1 This is an application for anticipatory bail in connection with C.R. No.I-100 of 2020 registered with Mokhada Police Station, District Palghar for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code. The First Information Report was lodged on 26th October 2020.

2. The present crime came to be registered at the instance of the Bharati Shinde. The deceased is the husband of complainant. It is alleged that 15 days prior to the alleged incident deceased came home late with depressed state of mind and upon asking the reason by the complainant, deceased replied that Principal Ahire and Raut sir are asking him to do

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work other than official duty with deliberate intention to cause harassment to him. They are threatening him that they will suspend him from job if he refused to do such work. She advised deceased not to pay any heed to such acts of Principal Ahire and Raut sir and if harassment continues, he should file complaint with higher authorities. They were planning to construct house at Mokhada. For that purpose, deceased inquired with Bajaj Finance for loan. He was informed to bring the certificate of employment and other documents for obtaining loan. Deceased went at his workplace and requested Principal Ahire to provide job certificate. However, he was avoiding to provide such certificate to him and therefore deceased was under tension. On 25/10/2020 at 8 a.m., deceased left the house for his office and told the complainant that he would come for lunch at home. While doing household work complainant found mobile of deceased at home. She also found that his motorcycle was parked outside residence. At 11.30 a.m., deceased called complainant and informed that he will come for lunch after 2 pm as Raut sir is going out and if he does not come till 2 p.m., he would have lunch at Murlidhar uncle's place. Murlidhar uncle came home at about 02.30 p.m. Hence, complainant asked him whether

her husband had come for lunch at his place. He said that he did not know as he had left house early. Thereafter, complainant gave call to his son to inquire whether deceased came for lunch. He stated that he is not at home. At about 4 p.m. complainant's grandfather Jaggannath Patil came at her place and informed that her husband has committed suicide by hanging in the verandah in front of Principal's Office of Ashram School. The complainant visited Police Station on 26/10/2020. She was informed that while recording inquest panchnama, chit was found in the shirt pocket of deceased stating that due to torture of Principal Ahire and Shri. Raut, he is committing suicide.

3. Learned advocate for the applicant submitted that the applicant was working as Principal in the school. The applicant has not caused any harassment to the victim to compel him to take step of committing suicide. One of the reason for harassment alleged by complainant is that the applicant was not co-operating for submitting job certificate which was necessary for obtaining loan. The said allegation is false. The applicant has sought information through RTI and received document regarding loan of deceased. It is submitted that the applicant had written letter dated 07/09/2020 to Amersafe Business Solutions Private

Limited stating that Tulsidas Shinde (deceased) is employed with Government Ashram school. He had applied for loan and one of the employee of school is guarantor for loan. If EMI of loan is not cleared by Mr. Shinde, the same would be deducted from salary. Hence, the allegation that applicant did not co-operate for providing certificate as alleged, is false. The applicant is Government Servant. In order to attract the offence under Section 306 of the IPC., prima facie, it needs to be shown that there was some active abetment to the deceased for committing suicide. It is submitted that the fact of this case prima facie would not indicate that there was any abetment as envisaged under Section 107 of the IPC. The suicide note relied upon by the prosecution does not indicate the nature of harassment. It is not sufficient to presume that there was any instigation to commit suicide. It cannot be said that the victim was compelled to commit suicide. He could have taken recourse to remedy available to him by protest or complaint to higher authorities. It is submitted that in several decisions of the Supreme Court as well as this Court it is held that even if there is some sort of the harassment to the victim, it cannot be said that there was abetment to commit suicide. The applicant has been working as teacher

since 1993. He was appointed as Principal from 11/08/2009. The deceased was working as cook. The allegations are afterthought. There was no intention to aid or instigate or abet suicide. Learned counsel for the applicant relied upon the decision of Supreme Court in the case of **Madan Mohan Singh Vs. State of Gujrat & Anr. (2010) 3 SCC (Cri.) 1048**. In the said decision, it is observed that in order to bring out an offence under Section 306 of IPC specific abetment as contemplated by Section 107 of IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. The facts of this case would indicate that the grievance against the accused is that he had changed duty of victim from one car to another though no other driver was ever transferred. Deceased had written suicide note which seems to have signed on 04/02/2008 complaining about stale incidents of 15/10/2007 to 19/10/2007. Seventeen days thereafter he was found dead. The Court observed that merely because a person had a grudge against his superior officer and committed suicide, on account of that grudge, even honestly feeling that he was wronged, it would still not be a proper allegation for basing the charge under Section 306 of IPC. It will have to be objectively seen

whether the allegations made could reasonably be viewed as proper allegation against the accused to the effect that he had intended or engineered suicide of person concerned by his acts words etc. Learned counsel for the applicant also relied upon the decision of this Court in Criminal Application No.678 of 2014 delivered in the case of **Akhtar Salim S/o Abdul Mannan Vs. State of Maharashtra & Anr.** The facts of this case, were that deceased was transferred to another place and inspite of request made by victim, he was not relieved by accused and ill-treated. One of the contention of accused is that victim was undergoing treatment for mental and anxiety disorder with psychiatric and he was under mental trauma. It was held that even if the FIR is taken as it is at the most it would reveal a departmental dispute between the applicant therein and the victim. There was no nexus between so called suicide and alleged ill-treatment. From FIR it cannot be said that accused would intend to bring about suicide of employee working under him. He also relied upon the decision of the Division Bench of this Court in the case of **Kishor Dattatray Shinde Vs. State of Maharashtra & Anr. delivered in Criminal Application No.814 of 2014.** It is submitted that in the said decision this Court has observed that although the Senior Officers of

deceased were harassing him it was held that the offence under Section 306 IPC is not made out. The facts of the said case would indicate that deceased was working as Junior technician. The co-worker suffered electric shock on duty and died. Victim requested for leave which was not granted. Suicide note was written alleging harassment by seniors. It was also mentioned that, he was mentally shocked due to death of his colleague in electric accident, and he was sad. Reliance is also placed several orders passed by this Court.

4. Learned APP submitted that the complainant has attributed specific overtact to the applicant. The suicide note reveals that the harassment was caused by the applicant. The victim had committed suicide outside the office of the applicant/accused. During the course of investigation statement of witnesses were recorded. They have stated that the applicant used to harass the victim. Learned APP relied upon the decision of the Supreme Court in the case of **Chitresh Kumar Chopra Vs. State (Government of NCT of Delhi) (2009) 16 SCC 605.** The Court observed that, to constitute, "instigation", a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by "goading" or "urging forward." The dictionary meaning of

the word “goad” is a thing that stimulates someone into action, provoke to action or reaction to keep irritating or annoying somebody until he reacts. Similarly urge means to advice or try hard to persuade somebody to do something or to make a person to move quickly and or in a particular directions, especially by pushing or forcing such person. Therefore, a person who instigates another has to “goad” or urge forward the latter with intention to provoke, incite or encourage the doing of an act by the latter. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to suicide. Each individual’s suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual’s vulnerability to end his own life, which may either be an attempt for self-protection or an escapism from intolerable self. It is further observed that in that case, apart from suicide note, statements recorded by Police during investigation, tend to show that on account of

business transactions with accused, the deceased was put under tremendous pressure to do something which he was perhaps not willing to do. Prima facie conduct of accused was such that deceased was left with no other option except to end his life. Learned APP relied upon decision in the case of **Pravin Pradhan Vs. State of Uttaranchal & Anr. (2012) 9 Supreme Court Cases 734** The applicant therein had prayed for quashing the proceedings. The deceased had left suicide note. The complainant had alleged that accused had long been attempting to compel the deceased to indulge in several wrongful practices was not comfortable with complying with such orders and as a consequence, the appellant started making illegal demands and as the same were not fulfilled, he began to harass and insult the deceased at regular intervals. On one occasion, deceased was disgraced in presence of staff by stating that, "had there been any other person in his place, he would have died by hanging himself. The apex Court referred to decision in the case of Madan Mohan Singh (Supra) and several other decisions. It was further observed that, instigation has to be gathered from the circumstances of a particular case. No straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced

the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide.

5. Learned APP pointed out statement of two witnesses. The said witnesses have stated that accused used to harass the deceased. Learned APP also relied on suicide note implicating accused.

6. I have perused the documents on record and various decisions placed for consideration. In the fact of the present case, it is evident that the victim was working in Ashram school. The applicant was principal/Headmaster of school. The complaint was lodged by the wife of the deceased. She has alleged that deceased had earlier disclosed that there was harassment at the instance of the applicant. The prosecution is also relying upon the suicide note of victim in which it is stated that the victim was committing suicide on account of the torture by the applicant and the co-accused. The suicide note was recovered immediately after the incident. It was found on person of victim. It is dated 25/10/2020. The applicant disputes the said suicide note. It is

pertinent to note that the victim had committed suicide by hanging in Varandah of school just outside the office of the applicant. The place of incident has proximity with harassment. The material on record shows that there was continuous torture to the deceased. There was threat to suspend from service and victim was forced to do unofficial work. The first incident was 15 days prior to the incident of suicide. The applicant had control over the deceased, being the Head of Government Ashram School. It is also pertinent to note that the investigation is in progress. Statements of witnesses recorded during investigation corroborates the version of complainant and suicide note. Prima facie, requirement of active act which lead to the deceased to commit suicide is apparent.

7. I have considered the law laid down in decisions referred to above. The supreme Court has observed that instigation has to be gathered from the circumstances of the particular case. No straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide. In the facts of this case no case for grant of anticipatory bail is made out.

ORDER

- (i) Anticipatory Bail Application No.955 of 2020 is rejected.
- (ii) Application is stands disposed of.

(PRAKASH D. NAIK, J.)