

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3227 OF 2021**

Ajit @ Harshad Siddharth Shere .. Applicant

Vs.

The State of Maharashtra .. Respondent

...

Ms. Anushka A. Shreshtha for the Applicant.

Ms. A.A. Takalkar, A.P.P. for the State.

Mr. S.G. Khandare, API attached to the Kurla Railway Police Station is present in the court.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 20TH SEPTEMBER, 2021.

P.C:-

1. The Applicant is the husband of deceased Sanjana, who committed suicide by jumping on the railway track in front of a train on 07/05/2021. The Complainant i.e. the father of the deceased lodged a report in the police station on the very same day, which prompted the Investigating Agency to register C.R. No.225 of 2021 in Kurla Railway Police Station invoking

AJN

sections 306, 498(A) read with Section 34 of the IPC. The Applicant along with his parents came to be arraigned as accused. On completion of investigation, charge-sheet has been filed. It is informed that Accused Nos.2 and 3 are already released on regular bail on filing of the charge-sheet.

2. With the assistance of learned counsel for the Applicant and learned A.P.P., I have perused the charge-sheet. The FIR is lodged by the Complainant, the father of the deceased, who has stated that the marriage of his daughter was solemnized with the Applicant on 19/05/2019 as per the rites and customs. It is stated that for some period of time, his daughter shared a happy relationship in the family, but she was subjected to harassment after three months of marriage. The in-laws of the deceased used to stay in Virar, but sometime, were on visiting terms with the couple, who had rented a house at Kannamwar Nagar. The allegations levelled are that her whole salary was taken by her in-laws and her mother in law used to live an affluent lifestyle at the cost of the deceased. General and vague allegations are levelled in the FIR and some discord is also made out in respect of the deceased not conceiving and certain tests being carried out.

3. The incident, which is projected as an incitement to commit suicide, took place on 05/05/2021. It is narrated by the Complainant that the Applicant objected to uploading of certain

photographs by the deceased on social media. The Applicant confronted her in front of the Complainant and objected to the photographs not being proper. Though the Complainant alleges that they went to the police station when the Applicant threatened him and his daughter with certain drastic consequences, the record, shows that it is the Applicant, who went to the police station and lodged a NC alleging that he was threatened by the Complainant and the deceased. In order to pacify the discord, the deceased was asked to accompany the father and, accordingly, she visited her parental house. On the fateful day i.e. on 07/05/2021, she left for office and took her life by running herself on railway track in front of a running train and the Applicant was informed by the police about the same. It is in the backdrop of these allegations, the Applicant is charge-sheeted for the offence punishable under Sections 306 and 498(A) of the IPC.

4. As far as offence punishable under Section 306 of the IPC is concerned, it necessarily warrants instigation or incitement of the nature, which has been set out under Section 306 of the IPC, which would amount to abetment. It must necessarily involve an element of intention so that the deceased is compelled to take the extreme step and left with no other option. The law as regards abetment to commit suicide is well settled. In case of **Arnab Manoranjan Goswami v. State of Maharashtra** reported in **(2021) 2 SCC 427**, the Hon'ble Apex Court reiterated the

position of law as regards the offence under Section 306 of the IPC and after referring to the catena of decisions, the following observations are made:

“Dealing with the provisions of Section 306 of the IPC and the meaning of abetment within the meaning of Section 107, the Court observed:

“12. In order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 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 intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306 IPC either in the FIR or in the so-called suicide note.”

The Court noted that the suicide note expressed a state of anguish of the deceased and “cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide”.

50. More recently in M Arjunan vs State (represented by its Inspector of Police) reported in (2019) 3 SCC 315, a two judge

Bench of this Court, speaking through Justice R. Banumathi, elucidated the essential ingredients of the offence under Section 306 of the IPC in the following observations:

“7. The essential ingredients of the offence under Section 306 IPC 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 the accused cannot be convicted under Section 306 IPC.”

5. As far as offence punishable under Section 498(A) of the IPC is concerned, the allegations are vague in nature and do not satisfy the ingredients of mental and physical cruelty as contemplated in Section 498(A) of the IPC.

6. On perusal of the allegations levelled in the complaint and the material compiled in the charge-sheet, it falls short of pointing out the abetment as it does not reflect any intention on the part of the Applicant for the deceased to take the extreme

step. On the contrary, being distressed with the incident, which took place on 07/05/2021, the Applicant himself approached the police station and filed a NC. Pertinent to note that the photographs around which the entire squabble revolved are placed on record and it can be seen that it is merely a picture of the deceased along with one of her female and a male friend, which, by no sense, can be said to be objectionable or can even give rise to or form basis of the complaint and the act of the deceased taking the extreme step. In any case, the test which is to be adopted is of a prudent person and how he would react in the given circumstances and the test to be applied is not of an over-sensitive person.

7. In the light of the aforesaid discussion, since the investigation is complete, the Applicant, who is reported to have no antecedents to his credit and no apprehension is expressed by the prosecution that he is likely to flee from justice, he deserves his release, subject to the stipulation that he shall not tamper with the prosecution evidence or in any way try to scuttle the prosecution case. Hence, the following order:

: ORDER :

- (a) The Applicant – **Ajit @ Harshad Siddharth Shere** shall be released on bail in C.R. No.225 of

2021 registered with Kurla Railway Police Station, District Mumbai on executing P.R. bond to the extent of Rs.25,000/- and furnishing 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 and shall not tamper with prosecution evidence.

(c) The Applicant shall report to the Kurla Railway Police Station on the first Monday of every month between 10.00 a.m. to 2.00 p.m. till framing of the charge and thereafter as per the directions of the Trial Court.

8. The Application is allowed in the aforestated terms.

9. 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.]