

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.29 OF 2021

(Vaibhav s/o Premanand Mawale Vs. State of Maharashtra thr. PSO PS Shegaon City,
Tq. Khamgaon, Dist. Buldhana)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. A.M. Sudame, Advocate for Applicant.
Mr. M.K. Pathan, APP for Non-Applciant/State.

CORAM: ROHIT B. DEO, J.

DATE: 5th FEBRUARY, 2021.

Heard.

2. The applicant is apprehending arrest in Crime 486/2020 registered with Police Station Shegaon City, District Buldhana for offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

3. The crime is registered on the basis of report dated 04.12.2020 lodged by the father of deceased Ms. 'S' who committed suicide on 03.12.2020.

4. The gist of the report is that Ms. 'S' was driven to take the extreme step due to her financial, emotional and sexual exploitation by the applicant. The allegation is that Ms. 'S', was persistently exploited, and later on discarded by the applicant – accused who focused his attention on a different girl. It is further alleged, that the applicant threatened Ms. 'S' that her photographs shall be

sent/forwarded to her father.

5. Mr. Akshaya Sudame would submit, relying on the decision of the Apex Court in *Arnab Manoranjan Goswami v. The State of Maharashtra & Ors. (Criminal Appeal 742 of 2020 (Arising out of SLP (Cri) 5598 of 2020)*, that the live link or proximity between the conduct of the accused and the suicide is missing. Mr. Akshaya Sudame would invite my attention to the observations of the Supreme Court in paragraphs 46 to 54 of the decision in *Arnab Goswami*.

6. In view of the heavy reliance placed on the said decision, it would be necessary to note the factual matrix in the back-drop of which the Apex Court articulated the observation.

7. *Arnab Goswami* is the Editor-in-Chief of an English television news channel and is also the Managing Director of ARG Outlier Media Asianet News Private Limited. He came to be arrested on 04.11.2020 in connection with Crime 59 of 2018 registered at Alibaug Police Station under Section 306 and 34 of IPC. The gist of the report lodged by the wife of the deceased is that her husband was under great pressure since *Arnab Goswami* did not pay his legitimate dues, in entirety.

8. The Supreme Court on a resume of a catena of decisions held that a *prima facie* evaluation of the report does not establish the ingredient of the offence of abetment of suicide under Section 306 of the IPC and directed that

the accused be released on bail.

9. This Court is conscious of the position of law that while dealing with an application seeking pre-arrest protection or regular bail, a microscopic evaluation of the material on record must be ordinarily shunned. However, reasons indicating the thought process underlying the ultimate decision will have to be indicated albeit briefly. Some reference to the material in the case diary is therefore, inevitable.

10. I have perused the suicide note which is in three parts. The first part is addressed to the informant, the second part is addressed to the mother and the third part is addressed to the brother. *Prima facie*, the contents of the suicide note are heart rending. Ms. 'S' was taken advantage of, her person exploited and when the sexual lust of the applicant stood satisfied, she was dumped. The applicant further issued threats that the photographs of Ms. 'S' shall be forwarded to her father, is the recital in the suicide note. Considering the contents of the suicide note, the *prima facie* view which is inevitable, is that Ms. 'S' was driven to take the extreme step. The submission that there was no live link between the conduct of the applicant and Ms. 'S' is noted only for rejection. The contents of the report and the call detail record (CDR) belie the said submission.

11. In my considered view, the decision in *Arnab Goswami* is of no assistance to the applicant. In my considered view, albeit a *prima facie* view, it appears that

the conduct of the applicant was such as would goad or instigate a person of normal sensitivity to commit suicide. The ingredients of offence punishable under Section 306 of IPC are clearly made out and no discretion can be exercised in favour of the applicant.

12. The application is dismissed.

13. After I dictated the order Mr. Akshaya Sudame submits that the CDR is already collected and therefore, the custodial interrogation of the applicant is not necessary.

14. Considering the contents of the suicide note, custodial interrogation is imperative. Ms. 'S' records in the suicide note that her photographs are in the possession of the applicant – accused and that the photographs were used as a leverage to issue the threat that the same shall be forwarded to her father. It would be extremely unfair to deprive the Investigating Agency the opportunity of custodially interrogating the applicant. The submission that custodial interrogation is not necessary is substance-less.

JUDGE