

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

ANTICIPATORY BAIL APPLICATION NO. 1002 OF 2022

Geeta Ganpatrao Patil

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr. Hitesh S. Shah, Advocate for the Applicant.
Ms M. R. Tidke, APP for the Respondent-State.

CORAM : VINAY JOSHI, J.

DATE : 19th APRIL, 2022.

P.C. :

. In anticipation of arrest in Crime No. 63 of 2022, registered with Shirol MIDC Police Station, District Kolhapur, for the offences punishable under Sections 305, 504, 506 r/w 34 of the Indian Penal Code and Sections 75 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the applicant lady is praying for pre-arrest protection.

2. The bail is claimed on usual ground like innocence, false implication etc. Besides that, it is contended that the applicant was not present at the time of alleged occurrence. The essential ingredient to constitute offence i.e. *mens rea*, is totally absent. The applicant is ready to abide by every condition as imposed by this Court.

3. At the instance of report dated 02nd April, 2022 lodged by the Informant Ramchandra Budkar, the crime came to be registered. The Informant's grandson (deceased) was studying in 10th Standard at Symbolic International School. The co-accused Ganpatrao Patil was a director of the said school, whilst the applicant was a principal of the school. On 01st April, 2022, the Informant Ramchandra received telephonic message, summoning him to attend the school. When he went to the school, he was asked to take his grandson (deceased) back to the house. On inquiry, deceased boy disclosed that while he was playing football inadvertently, goal post guard hit a girl, causing her injury. He disclosed that the director of school Ganpatrao has abused and humiliated him. Immediately the Informant met co-accused Ganpatrao to inquire the matter, on which co-accused said that his grandson has caused injury by goal post to a school girl. He said that the Informant's grandson is ill-cultured, no chances of reformation and he is slum boy. The co-accused also said that he was told by the Principal of the school (applicant) that in past also deceased boy had behaved unruly. She disclosed to Ganpatrao that deceased would be rusticated from the school from Monday. As well as she said that they do not want such pupils in the school. Thereafter, the Informant took his grandson to his house. After few hours, the Informant's grandson committed suicide by hanging at their residential house, therefore the report.

4. While resisting the pre-arrest protection, the learned APP submitted that the act of the applicant constitutes sufficient instigation to commit suicide. It is stated that in past, one similar type of crime about intimidating

children was registered against the applicant. She use to harass the school children. During the course of investigation, police have recorded several statements of the students as well as parents. It shows that the applicant was harsh with the students and use to scold them. Moreover, it is submitted that the most of the witnesses are school employees and children, therefore, if the applicant is released, she may pressurize the witnesses or tamper the prosecution evidence.

5. On going through the contents of FIR, it emerges that the concerned incident took place on 01st April, 2022 in the school. Apparently, the applicant was not present at the time of occurrence, but the alleged use of abusive language and insult was by co-accused Ganpatrao. It is the submission of the Informant that after abusing, Ganpatrao stated that his wife i.e. the applicant a Principal of school had informed him that the deceased boy was mischieves and there are no chances of reformation. She also informed Ganpatrao that they do not want unruly boys in the school. Perused the statements of school employees as well as students. *Prima facie* it reveals that none of them has stated that the applicant was present at the time of occurrence. The entire incident was connecting the co-accused Ganpatrao only. In the supplementary statement the Informant has stated the words used by Ganpatrao, which are as "आर्यन हा नालायक आहे, सुधारणार नाही, झोपडपट्टीछाप आहे, तुझ्यासारखा प्रवृत्तीच्या मुलांना जगण्याचा अधिकार नाही. जगावर तुम्ही भार आहात. या जगात राहण्याचा अधिकार नाही तुम्हाला. तू पृथ्वीवर भार आहेस, असे खूप वॉर्ड शब्दात माझ्या नातवाबद्दल माझ्या समोर बोलले होते." No role was ascribed to the applicant. The Informant himself has stated that at the relevant time abuses were given by Ganpatrao. Allegedly Ganpatrao told him as to what

the applicant conveyed him.

6. The learned APP while resisting pre-arrest protection submitted that the applicant's behavior was rued with children. She persistently gave threats to the children and also threatened to rusticate the deceased boy from the school. According to the prosecution, the act of the applicant amounts to sufficient instigation to the boy of tender age to commit suicide. In support of said contention, reliance is place on the decision of Supreme Court in the case of ***Praveen Pradhan V/s. State of Uttaranchal and Another***¹. It was a case of harassment by employer to employee on account of employment. There were allegations that employee was forced to work continuously for long duration, coupled with utterances. Besides that, there was suicidal note, therefore, facts of the said case are distinct, therefore the said decision would not help the prosecution. The prosecution further relied on the decision of Supreme Court in the case of ***Thanu Ram V/s. State of M. P.***² It was a case of matrimonial cruelty and use of presumption under Section 113-A of Evidence Act. The observations made in different context would not help the prosecution in any manner.

7. In order to constitute abatement to commit suicide, the instigation must necessarily and specifically be suggestive of the consequence. The words uttered in routine or in fit of anger, without intention cannot be termed as sufficient instigation. In this regard useful reference can be made to the decision of Supreme Court in the case of ***Chitresh Kumar Chopra V/s. State (Govt. of NCT of Delhi)***³ while dealing with the term "instigation"

¹ (2012) 9 SCC 734.

² AIR 2011 SC (Criminal) 2068

³ (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367 : AIR 2010 SC 1446

held: (SCC p.611, paras 16-17)

“16. ... instigation is to goad, urge forward, provoke, incite or encourage to do ‘an act’. To satisfy the requirement of ‘instigation’, thought it is not necessary that actual words must be used to that effect or what constitutes ‘instigation’ must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an ‘instigation’ may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot be said to be instigation.

17. Thus, to constitute ‘instigation’, a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by ‘goad’ 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...”

Herein, no case that even the applicant was present on the date of occurrence. The main allegations are against the Director of the institution i.e. co-accused Ganpatrao. The police have recorded statements of several school employees, however, their statements are in generalized form about rude behavior of the applicant. The prosecution also pointed out that in past offence of criminal intimidation was registered against the applicant relating to some other students. The investigation papers at the most discloses that the behavior of the applicant with students was inappropriate and she was in habit of

reprimanding the pupils. The general behavior of the applicant, *prima facie* cannot be construed as provocation to the deceased to commit suicide. The applicant's learned Counsel by placing reliance on the decision of Supreme Court in the case of ***Geo Varghese V/s. The State of Rajasthan & Another***⁴ would submit that a teacher's act in discharge of his duty without being any intention cannot be termed as abatement to commit suicide.

8. The learned APP submitted that, if the applicant is released on bail there are high chances of tampering. It is submitted that most of the witnesses are under influence of the applicant since they are students and staff of the school. That alone cannot be a reason to curtail the liberty of individual. Investigation is practically complete as statements of relevant employees were already recorded. Certainly a care can be taken to that aspect by imposing certain conditions. The applicant is a lady and there are no chances of abscondence. Considering the nature of accusation and material available of the record, applicant's liberty can be protected. Hence, the following order:

ORDER

- i) In the event of arrest of the Applicant/Accused Geeta Ganpatrao Patil in Crime No. 63 of 2022, registered at Shirol MIDC Police Station, District Kolhapur, for the offences punishable under Sections 305, 504, 506 r/w 34 of the Indian Penal Code and Sections 75 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015, she be released on bail on her furnishing P.R. bond of Rs.25,000/- with one or two sureties

⁴ LL 2021 SC 539

in the like amount.

ii) The Applicant/Accused shall attend concerned Police Station on every Sunday between 10:00 a.m. to 12:00 noon till filing of charge-sheet or for the period of ninety days, whichever is earlier.

iii) The Applicant/Accused shall not enter within the limits of Taluka Hatkanangale till filing of charge-sheet except attending the Police Station.

iv) The Applicant/Accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

v) The Anticipatory Bail Application is disposed of in above terms.

(VINAY JOSHI, J.)