

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2537 OF 2021

Tejas Pomraj Parihar .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Satyam Dubey for the applicant.
Rutuja Ambekar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 28th JULY, 2022

P.C:-

1 The applicant is charge-sheeted for the offence punishable under section 306 along with his brother, who face accusations u/s.section 376 (n), 420, 506, 306 read with 34 of IPC.

2 The deceased, a girl aged 20 years committed suicide on 3/07/2020, she left a suicide note.

Suicide Note has been recovered through a panchnama, but as far as the report of the handwriting expert is concerned, whether, it is written, by the deceased is yet awaited.

3 The prosecution case is, that the brother of the applicant Karan had love affair with the deceased and on 20/06/2020, the photographs of two of them were made viral, which reflected that they were already married and shared relationship of husband and wife. Upon this fact being disclosed, the parents of the deceased confronted Karan and, it was disclosed that they

had also maintained physical relationship. It is alleged that the applicant who was also in the meeting, being brother of Karan, opposed the marriage and he threatened the family.

4 Being stressful and feeling dejected, the deceased committed suicide by leaving a suicide note.

In the said note, she held Karan, responsible for her taking the extreme step and she even make a reference to the applicant as he had also threatened her that she should walk out of his brothers life, else he would falsely implicate her.

5 The suicide note when perused, reflect the mental state of a girl, who felt dejected when in front of her family she was made to admit relationship with Karan but who refused to perform the marriage. In the fit of frustration, she has written that the entire family of Karan shall be punished. She expressed her apologies to her mother and her family at the end of the note.

6 Abatement involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by various Courts, revolving around section 306 of IPC, make it clear that there has to be a clear *mens rea* to commit the offence. It also requires an active and direct role, leading the deceased to commit suicide, seeing no option and that the act must have been intended to push the deceased into such a position that he/she committed suicide.

7 In case of *Madan Mohan Singh vs. State of Gujarat (2010)*
8 SCC 628, the Hon'ble Supreme Court has held as under:

“10. As regards the suicide note, which is a document of about 15 pages, all that we can say is that it is an anguish expressed by the driver who felt that his boss (the accused) had wronged him. The suicide note and the FIR do not impress us at all. They cannot be depicted as expressing anything intentional on the part of the accused that the deceased might commit suicide. If the prosecutions are allowed to continue on such basis, it will be difficult for every superior officer even to work”.

8. Very recently, Hon'ble Apex Court in case of **Aarnab Goswami vs State of Maharashtra** reported in **2021 2 SCC 427** has culled down the ramifications of accusations being leveled under section 306 and has held that the essential ingredients of offence under section 306 being (1) abetment and (2) 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, by itself will not constitute 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 has satisfied, the accused cannot be convicted under section 306 of IPC.

In the wake of the above and since the act attributed to the applicant in the suicide note would cause short of instigation/incitement to commit suicide, *prima facie*, he cannot be held guilty of abetment to commit suicide. The investigation being complete and since it is not the case of the prosecution that the applicant is at flight risk or he shall not attend the trial, he deserves his liberty. Hence the following order.

ORDER

- (a) Application is allowed.
- (b) Applicant – Tejas Pomraj Parihar shall be released on bail in connection with C.R.No. 482 of 2020 registered at Ghatkopar Police station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) 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. The Applicant should not tamper with evidence.
- (d) The applicant shall mark his attendance to the concerned police station once in three months on any Saturday.
- (e) The applicant shall attend the trial on regular basis.

(SMT. BHARATI DANGRE, J.)