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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2809 OF 2021

Dipak Chandrakant Chavan .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Nitin Gaware-Patil for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

PSI Suhas V. Patil attached to Shivaji Nagar Police Station,
present.

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CORAM: BHARATI DANGRE, J.

DATED : 21st JULY, 2022

P.C:-

1. By the present application, the applicant seeks his release on bail in connection with C.R.No.57 of 2021, registered on 10/03/2021 and on it's investigation being complete, he is facing the trial for the offences punishable under Sections 306, 384, 388, 389 read with Section 34 of the I.P.C.

In connection with the subject C.R., the applicant came to be arrested on 12/03/2021 and the trial in form of Sessions Case No.108 of 2021 is pending.

2. Learned counsel for the applicant submits that perusal of the charge-sheet would reveal that there is no evidence against the present applicant for he being tried for the offence punishable under Section 306 of I.P.C., since there are no instances of abetment against him and even otherwise, he would submit that co-accused Neeta Khedkar, Aishwarya Khedkar and Dadarao Mankar are already conferred with protection, in the event of their arrest.

3. With the able assistance of the learned counsel and the learned A.P.P., I have perused the material compiled in the charge-sheet.

4. The applicant was appointed as a Police Sub-Inspector and after undergoing requisite training, he was posted at Yashoda Nagar Police Station, Nagpur in the year 2020. A.D.No.122 of 2020 dated 06/12/2020 came to be registered with the said police station as per Section 174 of Cr.P.C., as regards death of one Nivrutti Arun Khedkar, who allegedly committed suicide in his residential house on 06/12/2020. The A.D. was registered on the information supplied by Neeta

Khedkar, wife of Nivrutti Khedkar.

The investigation led to certain facts and it was revealed that one Sachin Sable had developed intimacy with Neeta and they had also established physical relationship. However, subsequently he was avoiding Neeta and investigation was conducted in that regard. Neeta, however, expressed that she was not willing to lodge any complaint against the said act.

5. On 10/03/2021, Sachin Sable committed suicide by hanging himself in his residential house at Ambarnath. During the course of investigation, an E-mail was recovered, which resulted in registration of C.R.No.57 of 2021 on 10/03/2021, invoking Sections 306, 384, 388, 389 read with Section 34 of I.P.C., against 6 accused persons, which included the present applicant.

6. The diary written by Sachin was recovered and an E-mail sent by Sachin to himself was constituted as a suicide note, which alleged that Neeta, Aishwarya and Dadarao had frequently called Sachin on his mobile and insisted that he should perform marriage with Netta and settle down at Nagpur, and on this count, he has stated that he was subjected to mental harassment. He also scribed that he was blackmailed in the incident of suicide committed by Nivrutti

Khedkar, husband of Neeta and as far as the allegation against the present applicant is concerned, it is stated that during the course of investigation, the applicant and one Police Inspector Durge were demanding a sum of Rs.3,00,000/- and, therefore, he was under tremendous mental stress.

The long notes in form of a diary record the day-to-day happening in the life of Sachin Sable and the E-mail also makes reference to the harassment faced by him, which constrained him to commit suicide.

7. The applicant came to be arrested in connection with the said C.R. on 12/03/2021. The role attributed to the applicant , spelled out from the charge-sheet, is to the effect that when Neeta's husband-Nivrutti committed suicide, the applicant was Sub-Inspector on probation and he alongwith Mr.Ashok Meshram and Mr.Durge was a part of the team, which was investigating the A.D.. The investigation, led to the proximity between Sachin and Neeta and the messages exchanged between them exposed the said relationship and it is alleged that the police officers were threatening and pressurizing Sachin that he would be arraigned as an accused and held him responsible for death of husband of Neeta and on this pretext, took money from him and kept him under pressure.

8. On 16/02/2021, the complainant-father of Sachin, received a phone call from one lady and she introduced herself to be one Mrs.Mankar and expressed desire to talk with Sachin. The complainant established contact with Sachin and on being told about the call received from said Mrs.Mankar, he became nervous. On 17/02/2021, the complainant again received a phone call from the said lady and she told that her husband has committed suicide because of Sachin, but she has destroyed the evidence by bribing the police personnel. Sachin spoke to the lady and asked why she is blackmailing. However, she told the complainant that she had evidence in her possession in form of recorded conversation and even she forwarded the screenshots of chats and messages. The complainant confronted Sachin about the same and he told the complainant that he should block the number as the lady is harassing him. On the next date, the son of the complainant committed suicide.

9. The transcript of the telephonic conversation has been recovered from the mobile phone of deceased Sachin and by executing a panchanama, it was transferred into a hard disk. The entire conversation is compiled in the charge-sheet. On it's perusal, it is apparent that the applicant is also a

participant to the conversation, but before it is admitted as an evidence and accepted as a proof against the applicant, the necessary formalities of matching of voice sample etc. will have to be completed. Whether the conversation would amount to instigation or abetment for the deceased to commit suicide will have to be decided during the course of trial.

10. Neeta Khedkar, her daughter Aishwarya and Dadarao Mankar, who as per the E-mail/diary recovered from Sachin, are responsible for he taking away his life, are released on bail by this Court (Coram : Prakash D. Naik, J.) in Anticipatory Bail Application No.1644 of 2021, by recording that on analysing factual aspects, *prima facie*, it is debatable that applicants have abetted suicide. In any case, it was held that it is not a case of custodial interrogation as the allegations, even if accepted as they stand, the role attributed was the insistence upon the deceased to marry Neeta.

11. In any case, in order to attract the offence of abetment, the prosecution will have to establish any positive act amounting to instigation or an act of intentionally aiding the deceased in committing suicide. Moreover, the proximity between the ultimate act of the deceased committing suicide and the alleged abetment will also have to be established. In

order to constitute an abetment, the abettor must be shown to have intentionally aided the commission of crime. It is only upon establishing the aforesaid, by positive evidence during the course of the trial, the prosecution can seek conviction of the applicant for the offence of abetment to suicide.

12. Since the other co-accused have been released on anticipatory bail, including Ashok Meshram, who was also a part of the team, which was investigating the A.D. of Nivrutti Khedkar, the applicant cannot be kept incarcerated further. He deserve his liberty, though he shall face the trial.

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Dipak Chandrakant Chavan shall be released on bail in connection with C.R.No.57 of 2021 registered with Shivaji Nagar Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in 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 before the concerned police station on first Monday of trimester between 10.00 a.m. to 1.00 p.m..

(SMT. BHARATI DANGRE, J.)