

Prajakta Vartak

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

ANTICIPATORY BAIL APPLICATION NO. 2764 OF 2022

Pravin Pundalik Patil & Ors. .. Applicants
Vs.
The State of Maharashtra. .. Respondent

Mr. Irfan A. Shaikh for the applicant.
Mr. Pratap Nimbalkar for the Complainant.
Smt. Veera Shinde, APP for the State.
PI Shri. Khandare, Thane Railway Police Station present.

CORAM : BHARATI DANGRE, J.
DATE : OCTOBER 06, 2022.

P.C.:

1. These three applicants are apprehending their arrest in connection with C.R. No. 1268 of 2022 registered with Thane Railway Police Station which invokes Section 306 read with Section 34 of the IPC.

The deceased is one Pralhad Patil who committed suicide on 10 September, 2022. During the course of investigation, a chit has been recovered which was typed on the same date and it is alleged that the deceased has named 13 persons who have insisted him to commit suicide.

2. The counsel for the complainant would vehemently argue that the deceased was doing cable business and the accused persons also entered into the said business and on account of the business rivalry, there were various complaints lodged against them.

3. When the chit dated 10 September, 2022 is perused, no specific role is attributed to the present applicants and a connecting responsibility is fixed on the persons whose names are mentioned therein and are responsible for the death of Pralhad. When specifically asked about the complaint being lodged, learned APP states that one complaint was lodged against the accused persons by the deceased somewhere in July, 2022, but names of the applicants are not mentioned in the said complaint.

4. The law as regards the abetment to commit suicide is well settled by the Hon'ble Apex Court in the case of **Arnab Manoranjan Goswami Vs. State of Maharashtra & Others, (2021) 2 Supreme Court Cases 417** wherein it is held as under:-

“54. In a concurring judgment delivered by one of us (Dhananjaya Y. Chandrachud, J.) in the decision of the Constitution Bench in Common Cause” (2018)5 SCC 1, the provisions of Section 107 were explained with the following observations:(SCC p. 244, para 458)

“458. For abetting an offence, the person abetting must have intentionally aided the commission of the crime. Abetment requires an instigation to commit or intentionally aiding the commission of a crime. It presupposes a course of conduct or action which (in the context of the present discussion) facilitates another to end life. Hence abetment of suicide is an offence expressly punishable under Sections 305 and 306 IPC.”

55. More recently in *M. Arjunan v. State*, (2019)3 SCC 315, a two-Judge Bench of this Court, speaking through R. Banumathi, J., elucidated the essential ingredients of the offence under

Section 306 IPC in the following observations: (SCC p. 317, para 7)

“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.”

56. Similarly, in another recent judgment of this Court in *Ude Singh v. State of Haryana* (2019)17 SCC 301, a two-Judge Bench of this Court, speaking through Dinesh Maheshwari, J., expounded on the ingredients of Section 306 IPC, and the factors to be considered in determining whether a case falls within the ken of the aforesaid provision, in the following terms: (SCC pp. 321-22, para 16)

“16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/ reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.”

5. In the wake of the above, the application for the short of the aforesaid parameters and considering that there is no direct or indirect instigation/incitement at the instance of the applicants, they deserve protection from arrest. Hence the following order:-

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No. 1268 of 2022 registered with Thane Railway Police Station, the applicants shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- each, with one or two sureties in the like amount.
- (c) The applicants shall report to the concerned police station from 11 October, 2022 to 13 October, 2022 between 02.00 p.m. to 05.00 p.m. and thereafter as and when called for.
- (d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)