

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.275 OF 2023

Deepak s/o Devidas Ghodke

... APPLICANT

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....
Mr. A.S. More, Advocate for applicant
Mr. K.N. Lokhande, A.P.P. for respondents
.....

CORAM : R.G. AVACHAT, J.

DATE : 20th MARCH, 2023

ORDER :

Heard. This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicant claims to have apprehension of arrest in connection with Crime No.I-34/2023, registered at Kharda Police Station, Taluka Jamkhed, District Ahmednagar for the offence punishable under Section 306 of the Indian Penal Code.

2. The First Information Report (F.I.R.) was lodged by widow of the deceased – Namdeo on 3/2/2023. It has been averred in the F.I.R. that the deceased was serving as a Peon

with Swami Vivekanand Secondary School at Gunwadi, Taluka and District Ahmednagar. The informant would stay in Pune. The deceased would visit Pune on holidays. For about one and a half year next before lodging of the F.I.R., the deceased was under mental stress. About 5 – 6 months before the incident, the deceased had related the informant that the applicant, a Teacher serving in the very school, would harass him for one or the other reason. The deceased had even shared his plight to another Peon – Landge Mama. He had requested Shri Landge to reason with the applicant, lest he would commit suicide.

3. It has further been alleged that, the deceased committed suicide by hanging on 21/1/2023. Before that, he had told the informant that the applicant owed him some money, to recover the same from the applicant, do not spare him. It has further been averred that, after 10 days of the deceased committing suicide, two suicide notes were found in his bag. The informant, therefore, lodged the F.I.R.

4. Learned counsel for the applicant would submit that, the F.I.R. has been lodged after 11 days of the alleged incident. Some documents have been placed on record to suggest that in 2019, it was the applicant who had lent the deceased a sum of

Rs.3,50,000/-. The deceased returned the same. Attention of this Court was also adverted to the statements of the Head Master and another Teacher of the very school to suggest that the applicant had never harassed or ill-treated the deceased for official reasons, such as – absence on duty, late reporting etc. According to learned counsel, for the offence of abetment of suicide, it has to be shown that conduct of the applicant was intentional to drive the deceased to commit suicide. According to him, no custodial interrogation of the applicant is required in the facts and circumstances of the case. he, therefore, urged for grant of the application.

5. The learned A.P.P. would, on the other hand, submit that, it is a serious offence. The deceased left behind two suicide notes, attributing the applicant's behaviour with him as a driving force to end his own life. It has also been brought to the notice of this Court that, the deceased had made two video calls. The recording thereof has been placed on record, wherein the applicant and one another teacher namely Shri Shaikh have been alleged to have harassed and tortured the deceased. According to learned A.P.P., an innocent person had to end his life because of the applicant. He, therefore, urged for rejection of the application.

6. Considered the submissions advanced. Perused the F.I.R. and the papers of investigation so far made. The deceased was a Peon in the school. There is record to indicate the applicant had lent him sum of Rs.3,50,000/- way back in 2019. The deceased had repaid the said amount. Learned counsel for the applicant has, therefore, reason to contend that it was just illogical to imagine that the applicant – Teacher would receive the amount as hand loan from a Peon. The F.I.R. has been lodged after 10 – 11 days of the incident. Two suicide notes are said to have been found in the bag of the applicant. It is informed that documents in handwritings of the deceased have been collected for comparison with the handwriting in the suicide note. There are also two video calls, wherein the deceased named the applicant and one Shaikh as the person who had harassed and tortured him.??

7. The case of the prosecution might be true. Needless to mention, intention is an essential ingredient of offence of abetment. From the nature of evidence, custodial interrogation of the applicant is not warranted. There is prima facie nothing to suggest the applicant to have owed any amount to the deceased. On the contrary, there is material to suggest

the applicant had lent the deceased a sum of Rs.3,50,000/-, which he received back. There are also statements of Head Master of the school and another Teacher to suggest that the applicant had not ill-treated the deceased over his late reporting or absence from duty. All in all, since custodial interrogation of the applicant is not warranted and the fact that the applicant had been protected vide order dated 27/2/2023, the Court is inclined to allow the application. Hence the order :

ORDER

- (i) The application is allowed.
- (ii) The interim order dated 27/2/2023 is made absolute.
- (iii) The applicant shall not tamper with the prosecution evidence and shall appear before the investigating officer as and when necessary for the purpose of investigation.

(R.G. AVACHAT, J.)

fmp/-