

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1324 OF 2023

Adnan Hamid Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

....

Mr. Rajendra Deshmukh, Senior Advocate a/w. Ms. Yugandhara A.
Namade, Advocate i/by. Mr. S.E. Shekade, Advocate for the Applicant
Mr. S.P. Sonpawale, APP for Respondent – State

...

CORAM : R. M. JOSHI, J.

RESERVED ON : 10th September, 2023

PRONOUNCED ON : 11th September, 2023

PER COURT :

. The applicant is apprehending arrest in connection with Crime No.140 of 2023 registered with Beed City Police Station, Dist. Beed for the offences punishable under Sections 306, 500 r/w. 34 of the Indian Penal Code.

2. Informant Sakshi reported to the police that she is resident of Shahunagar, Dist. Beed. According to her, her relative used to come to her residence to meet her and presently she (i.e. the lady who lodged offence u/s 376 IPC against husband of Sakshi) is working as Manager in the hotel of the applicant. It is alleged that

on 20.05.2023 informant's husband Sandip (deceased) informed her about the false offence of rape having been registered against him by the Manager of Milan Family Restaurant and the present applicant. Her husband used to say that he is being defamed in the society and therefore he does not wish to live. As he apprehended arrest, he thought it fit to end his life. On 23.05.2023 at around 11:45 p.m., she received information that Sandip has immolated himself at S.P. Office and was admitted in government hospital at Beed. She further claims that at the time of the treatment, he used to tell informant that he does not wish to live because of defamation in the society. On 02.07.2023 Sandip died in the hospital. Therefore, the present FIR came to be lodged against the applicant and co-accused for abetting the husband of informant to commit suicide by lodging false offence against him and thereby defaming him in the society.

3. Learned Senior Counsel on behalf of the applicant submitted that there is absolutely no material on record to hold that the applicant has instigated the deceased to commit suicide in any manner, whatsoever. According to him, from the material placed on record only presence of the applicant can be seen along with co-accused at the time of she filing report against the deceased.

Thus, according to him, it cannot be said to be instigation to the deceased. To support the said submissions, he placed reliance upon the order passed by this Court in the case of Anticipatory Bail Application No.989 of 2023. It is his further submission that the applicant has already been enlarged on bail by the Trial Court with observation that the allegations are false.

4. Learned APP opposed the said contention by referring to the FIR as well as the statements of the brother and mother of the deceased. It is his submission that lodging of the report is one of the aspect of investigation but in fact the deceased was harassed by the applicant and co-accused as it can be seen from the complaint made by the father of the co-accused against him. It is submitted that having regard to the seriousness of the crime, present application deserves to be rejected.

5. Upon perusal of the record it demonstrates, that co-accused is working as Manager at the hotel belonging to the present applicant. Statement of co-accused indicates that at the time of lodging of the report applicant was present along with her in the police station.

Needless to state that lodging of the report *per se* would not amount to instigation or abatement to commit suicide. In order to constitute offence under Section 306 of the IPC, there has to be more than lodging of the report i.e. causing of harassment or ill-treatment which is of such a nature that it will drive a person to commit suicide.

6. In the instant case, perusal of the record indicates that informant as well as all the witnesses claim that on 20.05.2023 deceased Sandip had informed them about lodging of report against him for the commission of offence of rape at the instance of co-accused. Informant in the FIR as well as these witnesses have claimed that during the course of treatment Sandip used to tell them about he being defamed in the society. These submissions indicate that Sandip was conscious and was able to make statement. In such circumstances, it does not stand to any reason as to why no statement of Sandip is recorded from 23.05.2023 till 02.07.2023. This creates a serious doubt about the claim of the prosecution that Sandip had disclosed to the informant or others about he being defamed in the society and applicant being responsible for the same.

7. So far as the allegations against the applicant, co-accused and the father of co-accused are concerned, there is no dispute about the fact that while granting bail to the applicant in the said crime, it is observed that there is no substance in the allegations made against them. Apart from this, perusal of the investigating papers in the instant crime do not indicate any other act done by the present applicant which would constitute abetment, instigation or aid to the act of commission of suicide. At the most it revealed, that at the time of lodging Crime No.165 of 2023 with Majalgaon City Police Station for the offence punishable under Section 376 of the IPC by the co-accused against deceased, applicant was present at the police station. This itself will not be sufficient to hold that the applicant has abetted the deceased to commit suicide. In such circumstances, there is no necessity of his custodial interrogation. The application deserves to be allowed, hence the following order:

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant in connection with Crime No.140 of 2023 registered with Beed City Police

Station, Dist. Beed for the offences punishable under Sections 306, 500 r/w. 34 of the Indian Penal Code, he be released on bail on furnishing PR Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one solvent surety in the like amount.

- (iii) He shall attend the concerned police station as and when called with written intimation.
- (iv) He shall not contact the witnesses directly or indirectly.
- (v) He shall not interfere with the evidence in any manner whatsoever.
- (vi) He is further directed to cooperate with the investigating agency for further investigation.

[R. M. JOSHI]
JUDGE