

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 242/2023

Aniket s/o Ashokrao Ghatol .vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. M. Daga, Advocate for applicant.

Mr. M. J. Khan, A.P.P for non applicant-State.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 21, 2023.

This is an application under Section 439 of the Criminal Procedure Code, 1973. The applicant has been arrested on 09.11.2022 in Crime No.531/2022, registered with Police Station, Shegaon, District, Buldhana, for the offence punishable under Section 306 of the Indian Penal Code, 1860. The accusation against the applicant is that he has abetted the commission of suicide by his friend namely; Siddhi.

2. Having heard both the sides, it appears that the applicant and Siddhi (since deceased) were in relationship for about four years. The chat between the two and the letter, allegedly written by the victim indicates that the applicant defamed her in the society and has committed number of mistakes but the victim ignored the mistakes and excused him. Her sufferance continued. The messages exchanged between the applicant and victim on the date of incident show that the victim wanted the applicant to meet her, come what may. The applicant was reluctant. Later, he appears to have agreed to meet. The victim, however, committed suicide.

3. The order passed by the learned Sessions Court indicate that the applicant and the victim were in love relation since 2018. Few days prior to the incident, the father of the victim had got caught her speaking on mobile with the applicant. The learned Sessions Court then has jumped to the conclusion that there is material to show applicant's role in the crime. However, the alleged material has not been discussed in the order.

4. The apex Court, in the case of *Geo Varghese Vs. State of Rajasthan and another*, reported in *2021 SCC OnLine SCC 873*, considered the law on the point of abetment of suicide and has held in paragraph 23 thus:

“23. What is required to constitute an alleged abetment of suicide under Section 306 IPC is there must be an allegation of either direct or indirect act of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless, there are allegations of such actions on the part of the accused which compelled the commission of suicide. Further, if the person committing suicide is hypersensitive and the allegations attributed to the accused is otherwise not ordinarily expected to induce a similarly situated person to take the extreme step of committing suicide, it would be unsafe to hold the accused guilty of abetment of suicide. Thus, what is required is an examination of every case on its own facts and circumstances and keeping in consideration the surrounding circumstances as well, which may have bearing on the alleged action of the accused and the psyche of the deceased.”

5. Thus unless there are allegations against the accused that his acts instigated the victim to commit suicide, it will be quite challenging for the prosecution to prove involvement of the applicant in crime. The facts put forth indicate that the victim was aggrieved by the behaviour of the applicant. However, the behaviour is not of the nature to abet the victim to commit suicide. Prima facie, there appears nothing to show that the applicant has instigated the victim to commit suicide. Thus, mere allegation of harassment would not be sufficient. In the present case, even harassment is not spelt out clearly.

6. The charge-sheet has been filed. The charge is not yet framed. It will take time to commence and conclude the trial. When inquired of antecedents, learned counsel for the applicant submits that there are no criminal antecedents.

7. Considering the peculiar facts of the case and the nature of evidence against the applicant as also the presumption that the person accused of a crime is considered to be innocent until proven guilty, I am of the considered view that no fruitful purpose will be served by keeping the applicant in jail. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

8. The observations made in this order are prima facie in nature and are made for deciding the present application only. The trial Court shall not get influenced by the observations made in this order.

9. Resultantly, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) Applicant – Aniket Ashokrao Ghatol, be released on bail in Crime No.531/2022, registered with Police Station, Shegaon, District Buldhana for the offence punishable under Section 306 of the Indian Penal Code, 1860, on he executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.
- (iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.
- (v) The applicant shall regularly attend the court and co-operate the learned trial court to complete the trial for the above offence.
- (vi) The applicants shall maintain law and order.
- (vii) In case of breach of any conditions, the learned trial court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The application is disposed of in the above terms.

(Anil L. Pansare, J.)