

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

CRIMINAL APPLICATION (ABA) NO. 208/2023

Mrs Rajal Mohit Ved V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.M. Jaltare, counsel for applicant.

Mr. I.J.Damle, APP for the non-applicant/State.

Mr. J.B. Duhilani, counsel with Mr. Mir Nagman Ali, for Assist to Prosecutor.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/08/2023.

1. Present application is for seeking anticipatory bail, in the event of his arrest in connection with Crime No. 88/2023 registered with Police Station, Beltarodi, District Nagpur for the offence punishable under Section 306 of the Indian Penal Code, 1860.

2. The applicant is apprehending an arrest at the hands of Beltarodi Police Station. It is alleged that the present applicant owns and runs a Travel and Tourism Agency namely, 'NC Travels'. The applicant got an acquaintance with the deceased and had convinced him to invest in her business, till date the deceased, his friends, and relatives have collectively invested about Rs. 70 to 80 Lakhs in the business of the applicant. It is further alleged that on 15/2/2023,

the applicant had called the deceased and informed him that one person named Khandelwal had lodged the FIR against her at Police Station Sadar, Nagpur, thereby alleging fraud and embezzlement and therefore, she was in need of Rs. 1 Lakhs towards the Lawyers' Fees and other procedure so as to secure himself from the said report. The deceased tried to arrange funds, trying all ends possible, however, he could not arrange it. Thereafter on 28/02/2023, the deceased has consumed a poisonous substance, which caused his death.

3. As per the contention of the present applicant that from the recitals of the FIR, nowhere it reveal that she has aided or instigated the deceased to commit suicide. Therefore, ingredients of Section 107 of the Indian Penal Code are not attracted, and there is no material to show that the present applicant has abated the deceased to commit suicide.

It is further contention of the applicant that as far as the allegation is concerned that her name is mentioned in the suicidal note which is already seized by the Police therefore, her custodial interrogation is not required and hence, she be protected by granting anticipatory bail in the event of her arrest.

4. The said application is strongly opposed by the State on the ground that during the course of the investigation, the investigating agency conducted the spot panchanama. The dead body of the deceased was sent for post-mortem examination. It further reveals that the investigating agency seized one suicide note, wherein the *prima-facie* involvement of the present applicant in the commission of a crime is revealed. Due to the continuous threat of the present applicant, the husband of the informant committed suicide. Thus there is a *prima-facie* material against the present applicant.

Moreover, during the investigation, the SDR and CDR of the mobile phone of the present applicant and the mobile phone of the deceased was collected from which, it reveals that there were continuous calls from the applicant to the deceased and she was demanding Rs. 1 Lakhs. The SDR and CDR report further shows that the present applicant continuously asked for Rs. 1 Lakhs and was giving threats that she is unable to return Rs. 80 Lakhs. The custodial interrogation of the present applicant is required for the interrogation purpose. The offence is of serious in nature and hence, prays for rejection of the present application.

5. Heard learned counsel Mr. A.C. Jaltare for the applicant. He mainly submitted that the applicant has no direct or indirect role, nor is he any concerned with the suicidal death of the deceased. In order to establish an offence punishable under Section 306 of the Indian Penal Code, there must be adequate mens-rea and the case has to be made out constituting ingredient of Section 107 of the Indian Penal Code. He submitted that there is no dispute about monetary transaction between the present applicant and the deceased. However, only because there was a monetary transaction and some amount is invested by the deceased in the business of the present applicant, is not sufficient to show that she has instigated or aided the deceased to commit suicide. The suicide note is already seized by the Police, the custodial interrogation of the present applicant is not at all required, and hence, she be protected by granting anticipatory bail.

6. Per contra, the learned APP for the State and learned counsel for the informant resisted the bail by filing the reply. As per the contention of the learned APP that there is prima-facie material which shows that there was a continuous call between the deceased and the present applicant. The present applicant insisted the deceased to pay her Rs. 1 Lakhs as some

crime was registered against her, on the basis of a report lodged by one Mr Khandelwal. She was insisting Rs. 1 Lakhs to incur the expenses towards the Lawyers' Fees and other expenses. Though the deceased attempted to collect the said amount but he could not. There was a threat by the present applicant to the deceased that if he has to arrange amount, then only, she can repay the amount of Rs. 80 Lakhs which is invested in her company. Due to which the deceased came under stress and committed suicide. The recitals of the FIR show that from the conversation it reveals that it is the applicant who has instigated and abated the deceased to commit suicide.

7. Having heard learned counsel for the applicant as well as learned counsel for the informant and learned APP. Perused the investigation papers. During the investigation, investigating officer has collected SDR and CDR which shows that there was continuous communication between the present applicant and the deceased prior to the incident. The transcription of the communication is also placed on record, which shows that the present applicant was asking money from the deceased. It further reveals from the said communication that the present applicant was asking the amount from the deceased and communicating that if he arrange money, then

and then only, he can receive his amount back. As per the recitals of the FIR, the deceased has made an effort to collect the money but he could not, and thereafter, he has committed suicide.

8. During the course of the investigation, the investigating officer has recorded the various statements. Some of the investors have also filed the intervention application in the present application and made their grievances regarding the amount invested with the present applicant, and they have not received any return from the said invested amount. During the investigation, the investigating officer has seized the detailed suicide note written by the deceased. The suicidal note indicates that the deceased was under pressure of paying the said amount and he specifically mentioned that the present applicant is responsible for his death. He also mentioned about the torture at the hands of the present applicant and requested to take strict action against the present applicant, after his death.

9. Thus, it transpired during the course of the investigation that before committing suicide, the deceased has written a suicide note, and specifically alleged that due to torture at the hands of the present

applicant, he is committing suicide and held responsible to the present applicant for his death.

10. Undisputedly, in order to establish the offence under Section 306 of the Indian Penal Code, the essential ingredients to constitute abatement have to be made out. It is a factual aspect, whether the act of the applicant could be construed as a sufficient abatement to the deceased at the hands of the present applicant. It reveals that there are specific allegations during the communications, the present applicant demanded money from him and harass him. Due to which, she has committed suicide. The transcription of the telephone communication is also on record, from which the prima-facie it appears that due to harassment which became unbearable and therefore, the deceased came under pressure and committed suicide.

11. Moreover, prima-facie, material is on record which is sufficient to indicate the involvement of the present applicant. The investigation is at a primary stage. The custodial interrogation of the present applicant is required for the interrogation purpose.

In view of the above findings, I am not inclined to grant anticipatory bail. Hence, the criminal

application deserves to be rejected. Accordingly, I pass the following order:

Criminal Application is **rejected**.

JUDGE