

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

CRIMINAL APPLICATION (ABA) NO. 892 OF 2022

Vitthal s/o Namdeo Raut vs. The State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. K. S. Narwade, Advocate for applicant.
Mr. N. R. Rode, APP for respondent State.

CORAM : BHARATI DANGRE J.

DATE : 23/01/2023

The applicant is apprehending arrest in Crime No.619/2022, registered with Police Station Pusad(Rural), District – Yavatmal on 20/10/2022. The subject crime invoked offences punishable under Sections 306, 506 read with 34 of the Indian Penal Code wherein the complainant is one Vishnu Pawar. The applicant is arraigned as accused No.1 along with a truck owner without his name being mentioned in the FIR.

2. The complainant reported to the Police Station on 20/10/2022 informing that on 10/10/2022, the applicant visited his house and inquired about his brother Manoj. The reason for such an enquiry was also disclosed, being that his

brother Manoj had agreed to supply labour for cutting of sugarcane, but has not acted as per the commitment and therefore, the applicant asked the complainant to either send labour or send his brother to him. Thereafter, on 12/10/2022, the complainant alleged that he along with his brother-in-law Rajendra Kashinath Rathod were forcibly met to sit in four wheeler and taken to Kolhapur and they were threatened that his brother should be persuaded to return the money. A promissory note of Rs.5,00,000/- is also alleged to have been executed forcibly from the complainant. The complaint further states that on 17/10/2022, his brother Manoj consumed poison and committed suicide. It is also the accusation faced by applicant that it is because of the threats that were given by the accused, his brother Manoj was not returning home and was absconding.

3. The applicant was granted ad-interim protection. The complaint also alleged that after Manoj committed suicide, the complainant and his brother-in-law Rajendra Rathod were reached to Mahagaon and again some signatures on the stamp papers were taken.

4. The applicant faces an accusation under Section 306 read with Section 34 of the IPC, along with one unknown person.

5. A person is said to abet the doing of a thing when he instigate any person to do that thing or intentionally aids, the act of illegal commission, the doing of that thing or if he engages with one or more other persons in a conspiracy of doing of that thing and if an act of illegal omission takes place in pursuance of the said conspiracy.

6. In order to attract the offence punishable under Section 306 of IPC which prescribes punishment for abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on part of the accused which led or compelled the person to commit suicide, conviction under Section 306 may not be sustained. The person is said to have abetted commission of suicide only if he has played an active role by act of instigation or by doing certain act to facilitate the commission of suicide.

7. In case of Madan ***Mohan Singh vs. State of Gujrat (2010) 8 SCC 628***, the Hon'ble Apex Court has considered the conspectus of abetment within the meaning of Section 107 in the following words :-

"12. In order to bring out an offence under Section 306 IPC specific abetment as contemplated by Section 107 IPC on the part of the accused with an intention to bring out the suicide of the concerned person as a result of that abetment is required. The intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 of IPC. We are of the clear opinion that there is no question of there being any material for offence under Section 306 IPC either in the FIR or in the so-called suicide note."

8. The essential ingredients of Section 306 of IPC being well crystallised as (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. There should be evidence capable of suggesting that the accused intended that by such act to instigate the deceased to commit suicide. The law as regards the incitement has further being well settled in case of ***Arnab Manoranjan Goswami vs. State of Maharashtra (2021) 2 SCC 427*** and since the accusation faced by the applicant fall short of the necessary ingredients, I do not think that the prosecution has *prima facie* made out a case seeking his custodial interrogation.

He therefore, deserve to be released on bail subject to the following conditions :-

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.619/2022 registered with Police Station Pusad(Rural), District-Yavatmal, applicant – **Vitthal s/o Namdeo Raut**, shall be released on bail on furnishing P. R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall report to the concerned Police Station on 26th and 28th January, 2023 between 3.00 to 5.00 p.m. and thereafter, as and when called for.
- (d) 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 from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

The observations made above are *prima facie* in nature and are restricted for the purpose of determination of the application and trial Court shall not be influenced by the aforesaid observations when the applicant is tried as an accused.

9. Application is disposed of.