

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1398 OF 2024
WITH
CRIMINAL APPLICATION NO. 3478 OF 2024
IN BA/1398/2024

Dnyaneshwar Shankar Bidve

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Ms. Susmita V. Dound a/w Mr. Prashant Giri

APP for Respondent/State : Mr. S.B. Pulkundwar

Advocate for First Informant/Complainant : Mr. N.B. Narwade

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 23, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the first informant/husband of the wife who was unsuccessful in committing suicide.
2. The applicant seeks bail in Crime No.1051 of 2023 registered with Pathardi Police Station, District Ahmednagar, for the offences punishable under Sections 306, 511, 354, 109 of the Indian Penal Code.
3. It is an interesting case wherein a married woman was unsuccessful in committing suicide on 18.03.2023. She had undergone treatment for a long time. treatment. She was discharged from the hospital. Now, she is residing with her parents. The husband lodged the report against the applicant on 11.10.2023. He alleged

that while cleaning the house, he found a suicide note in the handwriting of his wife in which she blamed that she was going to commit suicide due to the applicant. He also alleged that when he checked the WhatsApp messages of his wife, he found that the applicant and she had a long relationship. They had also strained relations. On this report, the police registered the crime and applied the above sections.

4. The crucial question raised by the applicant is since the wife of the first informant survived, the offence under Section 306 r/w 511 of the Indian Penal Code is not made out. He relied on certain case laws and argued that the applicant had been unnecessarily languishing in jail for no offence at all. He relied on two case laws to bolster his arguments that, in the circumstances, the applicant cannot be detained for a second in jail. He referred to the medical certificate of the injured and argued that if the wife of the first informant had any reason to commit suicide due to the abetment of the applicant, she had no reason to have the injuries on her person. She had multiple contusion injuries on her forearm. Therefore, there is a possibility of beating her by the first informant himself. He also argued that after the incident, the complainant/first informant did not take her to his house. Hence, she is residing with her parents. Just to create a scene, a letter like a suicide note was produced, and the offence was registered.

5. The learned APP and learned counsel for the first informant assisting him argued that the Kerala High Court, in a similar situation deferred with the view of the Hon'ble Supreme Court in Satvir Singh and Others Vs. State of Punjab and Another, (2001) 8 SCC 633, which is relied upon by the applicant, has held that the miscreants, against whom allegations are raised under Section 306 r/w. 511 IPC that they attempted the abetment to commit suicide by the unfortunate victim in this case can legitimately be proceeded against under Section 306 r/w. 511 IPC, and there is no inherent legal defect, infirmity or impossibility in such prosecution. After referring to the WhatsApp conversation between the applicant and the wife, who is now unable to speak and pointed out that the applicant was harassing her, threatening her to commit suicide and telling her to die, the law helps there must be some action for the wrongs committed by the other person on the land. Due to the acts of the applicant, a lady has ruined her life. The innocent husband was unnecessarily ragged with the litigation. He has depression in his matrimonial life. Everything that happened is only due to the conduct and acts of the applicant. Therefore, he may not be set free. They prayed to dismiss the application.

6. Hearing both sides, the question that may fall for consideration is, does Section 306 r/w 511 of IPC apply in the fact situation? It is futile to comment on the ingredients of Sections 306

and 511 of the Indian Penal Code. The offence under Section 306 completes on suicide by the person who was allegedly abetted by another person. So far as Section 511 of the Indian Penal Code is concerned, that provides for the offence for which an attempt to commit such offences is proved. The Bombay High Court in the case of A.R. Satish Vs. State of Maharashtra (Through Kalamboli Police Station), 2018 SCC Online Bom 678 relied upon by the applicant was dealing with the issue of applicability of these sections in the case where the attempt to commit suicide was unsuccessful. In para 14, it has been observed thus :

“14 The following conditions are required to constitute to justify application of Section 511 of IPC.

(a) The offender should have done some act towards commission of the main offence;

(b) Such an attempt is not expressly covered as a penal provisions elsewhere in the IPC.”

7. Further in para 15, the Court observed that it was imprudent of the investigating agency to register an FIR against the applicant charging him under Section 306 read with 511 of IPC. There is no evidence even, *prima facie*, to indicate that the offender has done any act towards commission of main offence. In the absence of any material in that regard, the question of applying Section 511 does not arise. The main offence would have been an abetment to commit suicide. There cannot be an offence of attempt to commit an

offence of abetment to commit suicide. The attempt is by the victim and it was not an attempt in any manner by the accused. Thereafter, various provisions of IPC were discussed, for which there are provisions for abetment for an attempt to commit an offence, and finally, it has been observed that abetment to commit suicide is an independent offence, and there cannot be any attempt to abet in the commission of suicide. On the contrary, the act of the victim would invite prosecution under Section 309 of IPC against him.

8. The Hon'ble Supreme Court, in the case of Satvir Singh (supra), relied upon by the applicant, was also dealing with an identical issue. The Hon'ble Supreme Court had laid down the law on the issue on the basis of the fact that the victim woman left the house all alone and reached the railway line, expecting the arrival of a train from Jalandhar. Within 15 minutes, the expected train arrived, and the victim standing on the track, was run over by that train. However, she survived. In these premises, in para 7, the Hon'ble Supreme Court observed thus :

“7. At the outset, we may point out that on the aforesaid facts no offence linked with Section 306 IPC can be found against any of the appellants. The said section penalizes the abetment of suicide. It is worded thus:

“If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.” It is a unique legal phenomenon in the Indian Penal Code that the only act, the attempt of which alone

will become an offence. The person who attempts to commit suicide is guilty of the offence under Section 309 IPC whereas the person who committed suicide cannot be reached at all. Section 306 renders the person who abets the commission of suicide punishable for which the condition precedent is that suicide should necessarily have been committed. It is possible to abet the commission of suicide. But nobody would abet a mere attempt to commit suicide. It would be preposterous if law could afford to penalise an abetment to the offence of mere attempt to commit suicide.”

9. In that case, the Hon’ble Supreme Court has laid down the law that it would be preposterous if law could afford to penalise an abetment to the offence of mere attempt to commit suicide.

10. The learned APP and counsel assisting him relied on the case of Berin P. Varghese and Others Vs. State of Kerala, Bail Application No.7311 of 2007 decided on 18.12.2007. In this case, the Hon’ble Kerala High Court took a different view from the view expressed by the Hon’ble Supreme Court in Satvir Singh (supra). With due respect to the Single Bench, I am of the opinion that the law laid down by the Hon’ble Supreme Court in the case of Satvir Singh (supra) would prevail. Reading the law laid down by the Hon’ble Supreme Court in the case of Satvir Singh (supra), it could not be said that the applicant may be prosecuted for the offence punishable under Section 306 r/w 511 of the Indian Penal Code. Considering the law laid down by the Hon’ble Supreme Court and the Bombay High Court

in the above said case laws, the Court is of the view that the applicant deserve bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Dnyaneshwar Shankar Bidve, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that;
 - (a) The applicant should not tamper with the prosecution witnesses.
 - (b) The applicant should not contact any of the witnesses till the trial is concluded.
- (iii) Criminal Application No.3478 of 2024 stands disposed of.

(S.G. MEHARE, J.)