



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

958 ANTICIPATORY BAIL APPLN. NO. 2051 OF 2024

...
SUNIL SURESH JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for the applicant : Mr.V.P.Savant
APP for Respondent-State : Mrs.M.L.Sangit
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 11.12.2024

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is apprehending arrest in connection with Crime No. 215/2024, registered with Kuntur Police Station, District Nanded, for the offence punishable under Sections 108, 115 (2), 351 (2), 352, 189 (2) of B.N.S.

3] The learned counsel for the applicant submits that this Court, by order dated 05.12.2024, has granted interim protection in favour of the applicant and the applicant has attended the concerned police station and has co-operated with the investigation.

4] The learned APP has produced the transcript of the suicide note/video of the deceased. In the transcript, the deceased has not taken the name of the applicant or held the applicant responsible for his death. However, the learned APP submits that *prima facie* there is material against the applicant, as such, the custodial interrogation of the applicant is necessary, therefore, the anticipatory bail should not be granted in favour of the applicant. The learned APP submits that a meeting was called in presence of the panchas on account of the accident and in the said meeting it was decided that the complainant should pay Rs.60,000/- for treatment of injured Sunil [applicant]. Thereafter, the accused persons harassed the victim and accordingly the victim had committed suicide.

5] The applicability of Section 306 of the Indian Penal Code [Section 108 of the Bhartiya Nyaya Sanhita, 2023] is explained by the Hon'ble Supreme Court in the case of **Nipun Aneja Vs. State of Uttar Pradesh in Criminal Appeal No.654 of 2017** decided on 03.10.2024 has held at para nos.21 & 22 as under :

21. The ingredients to constitute an offence under Sec.306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme

action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories. First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance, consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category leaves more expectations, whereas in the latter category, by and large, the expectations and obligations are prescribed by law, rules, policies and Regulations.

22. The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act, i.e., suicide. Over a period of time, the trend of the courts is that such intention can be

read into or gathered only after a full-fledged trial. The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the common intention Under Sec.34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them.

6] Considering the above law and applying to the facts of the present case, the applicant cannot be *prima facie* responsible for the suicide. There is no family relations between the applicant and the deceased and *prima facie* there cannot be a case that the accused intended the

consequences of the act, committed by the deceased. In view of the interim protection granted by this Court, the present applicant has attended the concerned police station and has co-operated with the investigation. There is no recovery to be made at the instance of the present applicant. The maximum punishment under Section 306 of the IPC [Section 108 of the Bharatiya Nyaya Sanhita] is of 10 years. In view of the same, the interim protection granted by order dated 05.12.2024 stands confirmed, on the following conditions :

i] The applicant shall attend the concerned police station as and when called by the investigating officer.

ii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iii] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

7] In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

8] It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

9] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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