

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1386 OF 2024**

Arun Raju Baigar ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Ravi Dwivedi along with Sainath S. Baji, for Applicant.
Mrs. Ranjana D. Humane, APP for State.
PI M. Shirsast, Shahu Nagar Police Station present.

**CORAM: N.J.JAMADAR, J.
DATE : 3 APRIL 2024**

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant who is arraigned in C.R.No.54 of 2024 registered with Shahu Nagar Police Station for an offence punishable under Section 306 of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. Pratibha (Deceased) was the daughter of the first informant. She was a divorcee. She had a son by her quondam husband. She had obtained divorce from her husband a year prior to the occurrence.
4. After the divorce, the deceased was in a relationship with the applicant. The first informant alleges, the applicant had given promise of marriage and had sexually exploited the deceased. The applicant had also extorted an amount of Rs.8 Lakhs from the deceased. However, the applicant subsequently started to avoid the deceased and refused to solemnize the marriage. The applicant also refused to

acknowledge the debt of Rs.8 Lakhs which he allegedly owed to the deceased. Therefore, the deceased was in a distressed state.

5. On 22 February 2024 at about 4.00 a.m., the deceased had called the applicant. During the course of the conversation, the applicant had mentally harassed the deceased. Unable to bear the harassment, the deceased died by suicide.

6. Learned Counsel for the Applicant submitted that, in fact, the applicant and the deceased had solemnized the marriage in the month of December 2023. Documents evidencing the marriage were recovered by the Investigating Officer during the course of investigation. Therefore, the allegation that the deceased committed suicide as the applicant refused to solemnize the marriage with the deceased is factually incorrect. It was further submitted that when the deceased had called the applicant on the morning of the occurrence, the applicant had immediately informed the first informant about the state of mind of the deceased. At the time of the occurrence, the applicant was not present in the house of the deceased, where she was residing alone. In the circumstances, there was neither any intentional aid nor instigation to commit suicide. Therefore, the applicant deserves to be enlarged on bail.

7. Learned APP resisted the prayer bail. It was submitted that the allegations in the FIR indicate that the applicant had subjected the deceased to continuous harassment. The applicant had exploited the deceased physically and

financially. The first informant has reiterated the allegations in the statement recorded under Section 164 of the Code of Criminal Procedure. Therefore, there is a strong prima facie case of abetment of suicide against the applicant. Hence, the applicant does not deserve to be enlarged on bail.

7. I have perused the allegations in the FIR as well as the statement of the first informant recorded under Section 164 of the Code before the Magistrate. Evidently, the deceased was divorcee. It seems, after the divorce, relationship developed between the applicant and the deceased. The documents placed on record, prima facie, indicate that the applicant and the deceased had entered into some form of marital bond. Whether the applicant and the deceased were legally married is a matter for adjudication at the trial.

8. From the perusal of the allegations in the FIR, it becomes prima facie evident that the deceased had called the applicant while he was at his work place at about 4.00 a.m. on the morning of the occurrence. After the conversation, the deceased allegedly died by suicide. A useful reference can be made to the judgment of the Supreme Court in the case of **Ude Singh and Ors. V/s. State of Haryana**¹ wherein it was, inter alia, observed as under :

“15. Thus, “abetment” involves a mental process of instigating a person in doing something. A person abets the doing of a thing when :

(i) he instigates any person to do that thing; or

¹ (2019) 17 SCC 301

(ii) he engages with one or more persons in any conspiracy for the doing of that thing; or

(iii) he intentionally aids, by acts or illegal omission, the going of the thing.

These are essential to complete the abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or being about by persuasion to do anything.

16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.”

9. In the case at hand, it does not appear that there was such a direct or proximate act on the part of the applicant which compelled the deceased to commit suicide. In any event, that would be a question for adjudication at the trial. I am, therefore, inclined to exercise discretion in favour of the applicant.

8. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Arun Raju Baigar be released on bail in C.R.No.54 of 2024 registered with Shahu Nagar Police Station on furnishing a PR bond in the sum of Rs.30,000/- & one or two sureties in the like amount to the satisfaction of the trial Court.
- (iii) The applicant shall mark his presence at Shahu Nagar Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.
- (iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.
- (v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.
- (vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vii) By way of abundant caution, it is clarified that the observations made

hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

(N.J.JAMADAR, J.)