

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1314 OF 2024

Amar Dattatray Dudhane

...Applicant

Versus

The State of Maharashtra

...Respondent

SHRIKANT
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MALANI

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WITH

ANTICIPATORY BAIL APPLICATION NO. 1357 OF 2024

Abhijit Sopan Ghule

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Chaitanya Pendse a/w Mr. hrishikesh Avhad and Mr. Adesh C., for Applicant in ABA/1314/2024.
- Mr. Niranjana Mundargi a/w Mr. Shailesh Chavan, Mr. Adesh C. and Mr. Pruthviraj Chavan, for Applicant in ABA/1357/2024.
- Mr. Mayur S. Sonavane, APP for Respondent.

CORAM : MANISH PITALE, J.

DATE : 02nd SEPTEMBER, 2024.

P. C. :

1. Heard, learned counsel for the applicants and learned APP for the State.

2. In these applications on 14.05.2024, this Court (*Coram : M.W. Chandwani, J.*) recorded a statement made by the learned APP appearing on that date in these applications that the applicants would not be arrested on the condition that they would cooperate with the investigation. According to the

learned counsel for the applicants, both the applicants appeared before the Investigating Officer and therefore, cooperated with the investigation.

3. The learned APP sought short adjournment, as the Investigating Officer is not present today, but, the learned counsel for the applicants submitted that this Court may consider the applications on merits, as according to them, the basic ingredient of the offence under Section 306 of the Indian Penal Code (IPC) is not made out, in the facts and circumstances of the present case.

4. The informant in the present case is the brother of the deceased. He has described three incidents of 17.01.2024, 06.03.2024 and 13.04.2024, for which the applicants and co-accused persons were responsible, which drove his brother i.e. the victim to commit suicide on 13.04.2024. The allegation is that the co-accused persons had caused installation of motors allegedly on the land belonging to the deceased for drawing water from a river. This led to dispute between the parties and eventually the victim committing suicide.

5. The learned counsel for the applicants submitted that even if the statement of the informant is to be taken into consideration, it cannot be said that the actions undertaken by the applicants and/or the employee of applicant Abhijit Sopan Ghule could be said to have been undertaken with an intention to drive the victim to commit suicide. Hence, the basic ingredient of the

offence is missing. It is submitted that in any case, the applicants have cooperated with the investigation and therefore, the interim orders may be confirmed and the applications may be allowed.

6. On the other hand, the learned APP submitted that the statement of the informant, while narrating the series of incidents, one of the incidents being soon before the actual act of the victim committing suicide, demonstrated that the ingredients of the offence under Section 306 of the IPC are *prima facie* made out.

7. This Court has considered the rival submissions in the light of the material available on record. The offence under Section 306 of the IPC pertains to abetment of suicide. In this connection when definition of abetment given under Section 107 of the IPC is considered, one of the vital ingredients is an instigation to a person to do a particular thing. In the present case, the extreme step taken by the victim is the act which the applicants and other accused persons have allegedly instigated him to undertake.

8. The FIR in the present case is filed in the backdrop of a dispute arising between the parties in connection with the applicants having allegedly installed motor in the land of the informant and his deceased brother, for drawing water from the river. There are documents on record to show that the applicants themselves had approached the State Authorities in connection

with the said dispute, raising a grievance against the informant and his brother. It is significant to note that on 13.04.2024, in the backdrop of the incident alleged by the informant himself, a prior FIR was registered at 20.11 hours at the behest of a labourer purportedly working with the applicant Abhijit Sopan Ghule, wherein offences, *inter alia*, under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, were registered against the informant and his nephew.

9. Subsequently, the subject FIR came to be registered on 15.04.2024, after about two days and this aspect also needs to be taken into consideration. In any case, even if the entire statement of the informant is to be accepted, including the description of the incident dated 13.04.2024, *prima facie* it cannot be said that such actions were undertaken by the applicants with the intention of instigating the victim to commit suicide. The backdrop of the dispute between the parties cannot be ignored and therefore, the applicants have made out a case in their favour.

10. In any case, the applicants have appeared before the Investigating Officer after the interim orders were passed in their favour and hence, the applications deserve to be allowed.

11. In view of the above, the interim orders dated 14.05.2024, are confirmed and the applications are allowed.

12. The applicants shall cooperate with the Trial Court for expeditious disposal of the trial.

(MANISH PITALE, J.)