

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2245 OF 2024

Akash Prakash Rupnar

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Jitendra Kshirsagar a/w Mr. Harshad kshirsagar and Ambreen Anwar Ahmed, for Applicant.
- Mr. Bapu V. Holambe Patil, APP for Respondent.
- Mr. Rahul Anil Salunke, Head Constable, Madha Police Station

CORAM : MANISH PITALE, J.

DATE : 28th August, 2024.

P. C. :

1. Heard, Mr. Jitendra Kshirsagar, learned counsel for the applicant and Mr. Bapu Holambe Patil, learned APP for the State.
2. The applicant is apprehending arrest in connection with First Information Report No.0069, dated 02.05.2024, registered at Police Station Madha, District Solapur, for offences under Sections 306 and 406 of the Indian Penal Code (IPC).
3. The informant is the father of the victim. His son committed suicide and according to the informant, the applicant is responsible for the same. It is the case of the informant that the victim had agreed to sell a truck to the applicant for ₹ 16.5 Lakhs. Only an amount of ₹ 5,000/- was given by the applicant and possession of the truck was taken with the understanding

that balance amount would be paid. Subsequently only a further amount of ₹10,000/- was paid and when the balance amount was demanded, the applicant avoided the same and subsequently it was found that even the truck was missing. According to the informant, this led to a situation where his son was instigated to commit suicide.

4. The learned counsel for the applicant submits that efforts were being made to locate the missing truck. The actions of the applicant could not be said to be undertaken within intention to drive the victim to commit suicide and hence, the ingredients of offence under Section 306 are not made out. It is further brought to the notice of this Court that subsequently the truck was located and as on today, the informant has obtained an order from the Competent Magistrate for interim possession of the truck. The possession is given to the informant. The said order was passed recently on 14.08.2024.

5. The learned APP submits that it was the conduct of the applicant which led to the suicide of the victim and hence ingredients of both the offences under Sections 306 and 406 of the IPC are made out. Hence, the prayer in the present application was opposed.

6. This Court has considered the material on record. *Prima facie*, the conduct of the applicant appears to be reprehensible, for the reason that having paid a quantum sum of amount of ₹ 15,000/- he took possession of

the truck with an understanding that the balance amount would be paid. The applicant appears to have avoided payment of the balance amount and in the meanwhile the truck disappeared. Therefore, it could be said that a *prima facie* case for offence of criminal breach of trust under Section 406 of the IPC can be said to be made out. But, it is relevant to note that maximum punishment for the said offence is imprisonment for three years.

7. As regards offence under Section 306 of the IPC, this Court is of the opinion that *prima facie* the ingredients of the said offence are not made out against the applicant, for the reason that howsoever reprehensible the conduct of the applicant may have been, at this stage, it is difficult to reach a conclusion that such actions of the applicant were undertaken with an intention to instigate the victim to commit suicide. The said aspect would be a matter for trial.

8. In view of the above, this Court is inclined to allow the application.

9. Accordingly, the application is allowed in the following terms :

- (A) In the event the applicant is arrested in connection with FIR No.0069, dated 02.05.2024, registered at Police Station Madha, District Solapur, for offences under Sections 306 and 406 of the Indian Penal Code, he shall

be released on bail on furnishing P.R. Bond of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the Trial Court.

(B) The applicant shall remain present before the Investigating Officer on 30th August, 2024 between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer. He shall cooperate with the investigation.

(C) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of the present order.

11. 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.

12. The application is disposed of.

(MANISH PITALE, J.)