

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2587 OF 2024

Santosh Machindra Atole ... Applicant
Vs.
State of Maharashtra ... Respondent
AND

ANTICIPATORY BAIL APPLICATION NO.2588 OF 2024

Shubham Balu Tate ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Ghansham Jadhav for Applicants in both the ABAs.

Mr. Balraj B. Kulkarni, APP for Respondent-State in both the ABAs.

Mr. Sadashiv Dada Bandgar, Police Constable, Baramati Taluka Police Station, Baramati.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 25, 2024

P.C. :

. Heard Mr. Jadhav, learned counsel for the applicants and Mr.Kulkarni, learned APP for the respondent-State.

2. Both the applicants in these applications named as accused persons in FIR No.0348 of 2024 dated 26.08.2024 registered at Baramati Police Station, District - Pune Rural, for offences under Sections 108 and 115(2) read with 3(5) of the Bhartiya Nyaya Sanhita, 2023 (BNS). The offence under Section 108 of the BNS pertains to abetment of suicide. The allegation against the accused persons including the applicants is that, they, by their actions, instigated the victim i.e. the son of the informant to commit suicide. In the statement leading to registration of the FIR, the informant has even referred to a chit said to have been found in the pocket of the deceased, wherein he named the

three accused persons including the applicants. There is also an allegation that the accused persons had beaten up the deceased due to which, he was scared and he ultimately committed suicide. The purport of the chit allegedly found in the pocket of the deceased, according to the investigating authority, indicated that the co-accused person Jalindar Atole owed Rs.45,000/- to the deceased and he was not returning the same and the applicants in these applications allegedly snatched away the mobile phone of the deceased.

3. The learned counsel for the applicants submits that the essential ingredients of the offence under Section 108 of the BNS are not made out from the FIR. The applicants are ready to co-operate with the investigation and in the face of the vague allegations made against them, this Court may consider allowing the present applications.

4. The learned APP submits that the investigation is still in progress, and therefore, granting relief to the applicants may have adverse impact on the investigation. It is submitted that the applicants are specifically named in the statement of the informant and therefore, relief may not be granted.

5. This Court has considered the rival submissions. A perusal of the statement of the informant, leading to registration of the FIR, indicates that the applicants are indeed named and there are allegations made against the applicants generally about having beaten up the victim (deceased) and there is a reference to the applicants having taken the mobile of the deceased. It is also alleged that the co-accused Jalindar Atole owed Rs.45,000/- to the deceased.

6. It is to be noted that Section 108 of the BNS pertains to abetment of suicide and a person, who has abetted another to commit suicide, is liable to be punished for imprisonment, which can extend upto ten years.

Section 45 of the BNS defines ‘abetment of a thing’, which includes instigating a person to do a particular thing. This Court is of the opinion that even if all the allegations levelled against the applicants are to be accepted for the sake of arguments, it would be a little far-fetched to reach a finding that the overt acts, allegedly undertaken by the applicants, were with the intention to instigate the victim to commit suicide. The basic ingredient of the offence under Section 108 of the BNS *prima facie* does not appear to be made out. The applicants are ready to co-operate with the investigation, and therefore, the applications deserve to be granted.

7. In view of the above, the applications are allowed in the following terms:-

- A. In the event the applicants - Santosh Machindra Atole and Shubham Balu Tate are arrested in connection with FIR No.0348 of 2024 dated 26.08.2024 registered at Baramati Police Station, District - Pune Rural, they shall be released on bail on furnishing PR Bond of Rs.25,000/- each with one surety in the like amount;
- B. The applicants shall appear before the investigating officer on 27.09.2024 and 28.09.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when required, till filing of the charge-sheet. The applicants shall co-operate with the investigating officer during the course of investigation;
- C. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

8. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of

anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present applications and that the trial Court shall proceed further, without being influenced by the observations made in this order.

9. The applications are disposed of.

(MANISH PITALE, J.)

Minal Parab