

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3358 OF 2024

Vikas Ramchandra Bansode ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Ritesh Thobde a/w. Ms. Ankita P. Pai and Mr. Changdev Shingade for Applicant.
Ms. Megha S. Bajoria, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 12, 2024

P.C. :

. Heard Mr. Thobde, learned counsel for the applicant and Ms.Bajoria, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0816 of 2024 dated 18.11.2024 registered with Mohol Police Station, District - Solapur Rural, for offences under Sections 108 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The informant in the present case is the father of the deceased and he has alleged that the applicant and co-accused persons were harassing his son i.e. the deceased, repeatedly in the backdrop of a dispute, pertaining to right of way through the agricultural land of the accused. It was stated that the agricultural land of the accused persons is adjacent to that of the informant. It was stated that eight days prior to the incident, as also one day prior to the incident, the accused persons harassed and assaulted the deceased due to which, he was left with no option but to commit suicide. A reference was made to a video uploaded in the form of *WhatsApp* status by the deceased where he stated that, he was fed up

with the harassment and therefore, he was committing suicide.

4. The learned counsel for the applicant submits that even if the statement of the informant, leading to registration of the FIR, is taken into consideration, the ingredients of the offence under Section 108 of the BNS are not made out. It is submitted that the acts attributed to the applicant and the co-accused persons cannot qualify as acts that would amount to abetment of suicide of the deceased. It is submitted that the applicant is ready to co-operate with the investigation.

5. On the other hand, the learned APP submits that the allegations are absolutely clear, specifically involving the applicant in the incident that occurred one day prior to the actual act of suicide, thereby showing that the applicant does not deserve any indulgence. It is submitted that the actions of the accused persons left no alternative for the deceased but to commit suicide and this is evident from the video recorded by the deceased before the act of committing suicide.

6. The offence under Section 108 of the BNS pertains to abetment of suicide and in that context Section 45 of the BNS pertaining to abetment to do a thing assumes significance. It includes an act on the part of the accused, which instigates the other person to undertake a particular act.

7. In the present case, while there appear to be allegations against the applicant and the co-accused persons with regard to the manner in which they had assaulted the deceased eight days prior to the act of committing suicide, as also the manner in which they had threatened him one day prior to the said act of suicide, the said allegations *prima facie* fall short of showing an intention on the part of the applicant to drive the son of the informant to commit suicide. At this stage, it is difficult to reach a conclusion that the acts undertaken by the applicant were with the intention to instigate the victim to commit suicide. It cannot be

forgotten that, even according to the informant, the aforesaid acts were undertaken by the applicant in the backdrop of the dispute pertaining to right of way and that too, from the agricultural land of the applicant and other accused persons, thereby giving a different colour to the entire backdrop to the incident.

8. This Court is convinced that a *prima facie* case is made out by the applicant to claim that the basic ingredients of the offence under Section 108 of the BNS cannot be said to be made out in the facts and circumstances of the present case. The applicant is ready to co-operate with the investigation and hence the application deserves to be allowed. Accordingly, it is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0816 of 2024 dated 18.11.2024 registered with Mohol Police Station, District - Solapur Rural, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer on 16.12.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

9. Needless to say, violation of any of the aforesaid conditions would make the applicant 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 applicant in the present application and that the trial Court shall proceed

further, without being influenced by the observations made in this order.

10. The anticipatory bail application is disposed of.

(MANISH PITALE, J.)

Minal Parab