



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.127 OF 2024

Dharmapal s/o Bhagwan Bagde
Vs.

State of Maharashtra, Through Police Station Officer, Buttibori Police
Station, District Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Lubesh Meshram, Advocate for applicant.
Mr. Nikhil Joshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/02/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.69/2024 registered with Police Station Buttibori, District Nagpur for the offence punishable under Sections 306 and 498-A of the Indian Penal Code, the present applicant who is the husband approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by his father-in-law Pradip Namdev Kamble alleging that the marriage of his daughter was performed with the present applicant on 11.12.2022 as per the customs. The present applicant is serving as a Teacher. It is further alleged that there was discord between the husband and wife and therefore, his daughter came at the house on 27.11.2023. Though the present

applicant had been to his house to fetch the wife back, the deceased has not joined his company and alleged that she is ill-treated by the present applicant by suspecting her character.

3. It is further alleged that the present applicant was harassing her by demanding the amount illegally and thereby instigated her and abetted her to commit suicide. Due to which, the deceased has committed suicide on 29.01.2024 by jumping before the train. On the basis of report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that there is no proximity between the ill-treatment at the hands of the present applicant and the suicide committed by the deceased. He further submitted that as far as the allegations are concerned, which are false ones, afterthought due to the death of the deceased accidentally. He submitted that even accepting the allegation as it is, custodial interrogation of the present applicant is not required, as nothing is to be seized from the present applicant and therefore, he be protected by granting pre-arrest bail.

5. Learned APP strongly opposed the application on the ground that within seven years of marriage, the death of the deceased is caused. The

deceased was subjected for harassment at the hands of the present applicant, who is husband. Due to which, she constrained to leave matrimonial house and was residing at her parents house. He further submitted that on the day of incident, she had been to the house of her friend and disclosed to her that she is fed up with the harassment at the hands of the present applicant. He submitted that due to the harassment of the present applicant, the deceased has committed the suicide.

6. After hearing the learned Counsel for the applicant and after perusal of the investigation papers, it reveals that the marriage of the deceased and the present applicant was performed on 11.12.2022. As per the allegation by the informant there was discord between the husband and wife and therefore, his daughter left the matrimonial house and joined the company of the informant and was residing at his house. On 29.01.2024 deceased woke up late in the morning and went at her friend's house and thereafter, at the house of one Eknath Avghade and not return back, therefore, he searched for her and subsequently her dead body was found on the railway track. He submitted that his daughter has committed the suicide due to the harassment at the hands of the present applicant. During the investigation, the Investigating Officer has recorded the statements of the relevant witnesses including the statement of Renuka Raju Wanjari at whose

house the deceased has visited on the day of incident. As per the statement of said Renuka Raju Wanjari on 29.01.2024, the deceased had been to her house and disclosed to her that prior to 2 – 3 days along with her husband, she had been to her relative's house to attend one function, wherein she was humiliated and insulted by the present applicant and also quarreled with her and therefore, she was mentally disturbed.

7. Admittedly, the said fact is not narrated by the informant while lodging the First Information Report. There is no material collected during the investigation to show that prior to 2 – 3 days of the incident, the applicant had been to the house of the informant and taken the deceased along with him to attend the function. Thus, the reason mentioned by this witness for the suicide is not supported by any other substantial material which is collected during the investigation. Even accepting the allegation as it is, admittedly, nothing is to be recovered from the present applicant and his custodial interrogation is not required. The applicant is charged of the offence punishable under Sections 306 and 498-A of the Indian Penal Code. There is no previous complaint regarding the harassment at the hands of the present applicant.

8. To attract the offence of abetment, the definition of abetment requires to be seen.

"A person abets the doing of a thing, who instigates or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, or intentionally aids, by any act or illegal omission, the doing of that thing".

In order to constitute abetment, the abettor must be shown to have "intentionally" aided the commission of the crime. Mere proof that the crime charged could not have been committed without the interposition of the alleged abettor, is not enough compliance and to attract the provisions of Section 107 of the Indian Penal Code. There should be a proximity and nexus between the two acts.

9. Considering the same, at this stage, as custodial interrogation of the present applicant is not required, nothing is to be recovered from him. The Investigating Officer has already recorded the relevant statements of the witnesses. The applicant can be protected by granting anticipatory bail. In view of that, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) In the event of his arrest, the applicant **Dharmapal s/o Bhagwan Bagde** be released on anticipatory bail in connection with Crime No.69/2024 registered with Police Station Buttibori, District Nagpur for the offence punishable under Sections 306 and

498-A of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)