



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

CRIMINAL APPLICATION (ABA) NO. 216 OF 2024

Bharat Vishnu Hingane V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Harshwardhan Chawhan, counsel for the applicant.
Mrs. Swati Kolhe, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 03/05/2024.

1. Apprehending arrest at the hands of police in connection with Crime No. 79/2024 registered with Police Station Shegaon, District Buldhana for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation is against the present applicant on the basis of the report lodged by Sharda Vitthal Hingane, on an allegation that she got the knowledge that her husband Vitthal Hingane had hanged himself in the field and that deceased had told one Sagar Hingane that he is committing suicide as the present applicant along with the other co-accused are demanding Rs.10 Lakhs from him to settle a case. On the basis of said report police have registered the crime against the present applicant and the other co-accused.

3. The learned counsel for the applicant submitted that general allegations are made against the present applicant that

he has demanded the amount of Rs.10 Lakhs and no reason is mentioned for what purpose the said amount is demanded. As per the allegation, the said amount is demanded to settle the case which is registered against himself. On the basis of report lodged by one girl alleging that she was subjected for sexual harassment at the hands of the son of the deceased. There is no specific role attributed to the present applicant and submitted that even though the order passed by the Additional Sessions Judge, Buldhana shows that in a chit only, it is mentioned that the accused have abetted the deceased to commit suicide. There is no nexus between the abetement and the act of committing suicide, immediate custodial interrogation is not required.

4. The learned APP strongly opposed the said application on the ground that during investigation, it reveals that the report was lodged by one girl, the son of the deceased was prosecuted for the sexual harassment. It is alleged that present applicant have demanded the amount of Rs. 10 Lakhs to settle the said case from the deceased and therefore, deceased committed suicide. One chit is also seized by the investigating officer showing the name of the present applicant, which shows that it was the present applicant who abated the deceased to commit suicide and therefore, deceased has committed suicide. In view of that, the custodial interrogation of the present applicant is required and therefore, application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the FIR. On perusal of the FIR, it reveals that the deceased has committed suicide as the applicant has demanded the amount of Rs. 10 Lakhs from him. During the investigation, one chit was seized by the investigating officer, which only mentions the name of the present applicant. However, no specific role attributed to the present applicant. It is only mentioned that the present applicant are pressuring him to pay the said amount. The statement of the witnesses also recorded, including the statement of the informant and other relatives. As far as the offence of the abatement is concerned, it is well settled law that to attract the abatement, there should be an instigation or aiding to the deceased to commit the suicide. Recently the **Principal Seat of Division Bench of this Court in Criminal Writ Petition Nos. 104, 105 and 106/2021 decided on 27/03/2024**, dealt with the aspect of abetment to commit suicide and by referring the case of *Shabbir Hussain vs. The State of Madhya Pradesh reported in (2021) 17 SCC 807*, it is held that in order to bring a case within the provisions of Section 306 of the IPC, there must be a case of suicide and in the commission of the said offence the person who is said to have abetted the commission of suicide must have played an active role by an act of instigating or by doing a certain act to facilitate the commission of suicide. The Supreme Court further goes on, to observe that mere harassment without any positive action on the part of the accused proximate to the time of occurrence

which led to the suicide would not amount to an offence under Section 306 of IPC.

6. In the light of the above observation, if the facts of the present case are considered, except the name mentioned in the chit, there is no other material to connect the present applicant to show that either he has instigated or added, the deceased to commit suicide. Moreover, the custodial interrogation of the present applicant is not required as nothing is to be recovered from him. In view of that, ad-interim protection deserves to be confirmed. Accordingly, I proceed to pass the following order:

- a) The criminal application is allowed.
- b) In the event of the arrest in connection with Crime No.79/2024 registered with Police Station Shegaon, District Buldhana for offence punishable under Section 306 read with Section 34 of the Indian Penal Code, the applicant shall be released on anticipatory bail on executing PR. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned police station once in a week i.e. on every Monday between 10:00 a.m. to 01:00 p.m. and shall cooperate with the investigating agency.

- d) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]