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24.aba.427.20-24 & aba.433.2024

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

CRIMINAL APPLICATION (ABA) NO.427 OF 2024

Pranita Prashant Varthi

Vs.

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

AND

CRIMINAL APPLICATION (ABA) NO.433 OF 2024

Ashish Gangaram Bokade

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Hudkeshwar, Nagpur

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

Court's or Judge's orders

Mr. S. K. Bhoyar, Advocate for applicant in ABA No.427/2024.

Mr. C. B. Barve, Advocate for applicant in ABA No.433/2024.

Mr. M. J. Khan, APP for respondent/State in ABA No.427/2024.

Mr. C. A. Lokhande, APP for respondent/State in ABA No.433/2024.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/07/2024

1. By these applications, the applicants are seeking pre-arrest bail in connection with Crime No.415/2024 registered with Police Station Hudkeshwar, Nagpur, District Nagpur for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

2. Learned Counsels for the applicants submitted that the accusation against the present applicants is on the basis of report lodged by Khushi Bhaskar Chaudhari who is the daughter of the

deceased who alleged that her father left the house on 21.05.2024 at about 3.30 p.m. and not returned back. After his search his dead body was found near the hotel. She and other family members immediately rushed to the spot of incident and it revealed to them that he has committed suicide by consuming poison. The suicide note is also recovered from the person of the deceased wherein names of the present applicants are mentioned. It is further alleged that the present applicants have abetted the deceased to commit suicide as there was a money transaction and the applicants have not returned the amount which is obtained by them from the deceased.

3. Learned Counsels for the applicants further submitted that as far as the allegations are concerned, which do not constitute the offence of abetment. The custodial interrogation is not required as nothing is to be recovered from the present applicants. They further submitted that as far as the contention of the State is concerned that mobile phones of the applicants are required and therefore, custodial interrogation is required. The applicants are ready to cooperate with the investigating agency and ready to produce the same before the Investigating Officer as well as their bank statements. They further submitted that mere allegation that the amount is not repaid back by the present applicants is not sufficient to constitute an

offence of abetment. In view of that, they be protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that the suicide note was found along with the deceased which specifically shows that the names of the present applicants is mentioned in the said suicide note. Learned APP further submitted that as far as the applicant Pranita is concerned, she threatened the deceased prior to the incident. There was a money transaction between them and as money was demanded by the deceased, the deceased was abetted by the present applicants and therefore, he committed suicide.

5. After hearing the learned Counsels for the applicants and learned APP Mr. M. J. Khan and Mr. C. A. Lokhande, for the State, perused the investigation papers from which it reveals that there was a money transaction between the deceased and the present applicants. As far as the custodial interrogation is concerned, which is required for the seizure of the mobile phones and the bank statements. As far as the bank statements are concerned, the Investigating Officer can obtain the same from the bank also. The applicants have shown their willingness to produce the said mobile phones before the Investigating Officer. There is no complaint as to the misuse of the liberty granted to them.

6. In view of the observations of the Hon'ble Apex Court in the case of **Shabbir Hussain vs. The State of Madhya Pradesh** reported in **(2021) 17 SCC 807** wherein 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 Hon'ble Apex 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.

7. In the light of the above observations, and considering that the custodial interrogation of the applicants is not required, the interim protection granted to the present applicants deserves to be confirmed on condition that:

(i) The applicant Pranita shall produce her mobile phone before the Investigating Officer on **Thursday i.e. on 25.07.2024** and both the applicants shall produce their statements of the accounts and shall cooperate with the investigating agency.

(5)

24.aba.427.20-24 & aba.433.2024

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

8. Both the applications are disposed of.

(URMILA JOSHI-PHALKE, J.)