



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

CRIMINAL APPLICATION (ABA) NO. 438 OF 2024

Pramod s/o Devraoji Sahare Vs 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. S.M. Wandre, counsel for the applicant.

Mr. N.B. Jawade, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/07/2024.

1. By this application, the applicant is seeking pre-arrest bail, in connection with Crime No.415/2024 registered with Police Station, Hudkeshwar, Nagpur for the offence punishable under Sections 306 read with Section 34 of the Indian Penal Code, 1860.

2. The accusation against the present applicant is on the basis of a report lodged by the daughter of the deceased, alleging that her father has committed suicide on 30.05.2024, due to the abetment at the hands of the present applicant and other co-accused, as they have denied to repay the hand loan amount to her father. She submitted that in the suicide note, the name of the present applicant is mentioned.

3. Learned APP strongly opposed the said application on the ground that, considering that the applicant and other co-accused were consistently harassing the deceased and

therefore, he committed suicide. A prima facie case is made out, and therefore, the application deserves to be rejected.

4. After hearing the learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR and the investigation papers, from which it reveals that there was some money transaction between the present applicant, and other co-accused and the deceased. As per the allegation in the FIR, the deceased has left the house on 30.05.2024, and not returned back. Thereafter, his dead body was found near the hotel, and one suicide note was also seized from his pocket, wherein the names of the present applicant along with the co-accused was mentioned.

5. As far as the abetment is concerned, it is now well settled that in order to bring a case within the provisions of Section 306 of the Indian Penal Code, 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 in the case of *Shabbir Hussain Vrs. State of Madhya Pradesh, reported in (2021) 17 SCC 807* held 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 Indian Penal Code.

6. At this stage, mere money transaction is not sufficient to show that there was an abetment at the hands of the present applicant. There is no complaint by the investigating agency that applicant has not cooperated with the investigating agency after he is released on ad-interim anticipatory bail. In view of that, ad-interim anticipatory bail deserves to be confirmed with similar terms and conditions. Accordingly, I proceed to pass the following order:

- a) The ad-interim protection granted to the present applicant dated 24/06/2024 is confirmed with similar terms and conditions.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]