



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

CRIMINAL APPLICATION (ABA) NO.544 OF 2024

Sanjay Shrikrishna Ingle

Vs.

State of Maharashtra, Through Police Station Officer, Police Station
Amdapur, District Buldhana

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

Court's or Judge's orders

Mr. Akshaya Sudame, Counsel with Mr. S. V. Pawar, Counsel for the
applicant.

Mr. U. R. Phasate, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 01/10/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.168/2024 registered with Police Station, Amdapur, Tq. Chikhli, District – Buldhana, for the offences punishable under Sections 302, 109, 504, 506 read with Section 34 of the Indian Penal Code, the applicant approached to this Court for grant of pre-arrest bail.

2. Learned Counsel for the applicant submitted that the applicant's father is a member in a Tanta Mukti Samiti. One, Smt. Kantabai Janardhan Joshi owns agricultural land in Gut No.55 of at Dhotra Bhangoji admeasuring 88 R. On 06.06.2024, there was a dispute between parents and the family members of the complainant and the co-accused Samadhan Uttam Joshi and others on account of

ploughing the fields. It is alleged that the present applicant was called by the co-accused and on the instigation of the present applicant the co-accused drove the tractor on the person of the deceased and caused his death. On the basis of said report, the police have registered the crime against the present applicant.

3. He submitted that now investigation is completed and charge-sheet is filed. Except the stray statement of the instigation, there is no other material to connect the present applicant in what manner he has instigated the other co-accused to drove the vehicle on the person of the deceased. He submitted that from the photographs which are obtained from CCTV footage showing that at the relevant time, the complainant was also in the shop of the present applicant. Thus, he submitted that even accepting the allegation as it is, no offence is made out. Even complainant has not witnessed the said incident. The allegation against the present applicant to the extent of instigation is also not sufficient to attract Section 109 of the Indian Penal Code. As far as the contribution of the present applicant in the elimination of the deceased is concerned, no evidence is to substantiate the said allegations. During the investigation, the applicant has attended the Police Station and cooperated with the investigating agency. In view of that, the interim

protection granted to the present applicant deserves to be confirmed.

4. Learned APP strongly opposed the said application and submitted that during the statement recorded under Section 164 of Cr.P.C. the witnesses have specifically stated in what manner the instigation was there at the hands of the present applicant. He further submitted that when applicant has attended the Police Station as per the direction of this Court, he has stated the witnesses and regarding the same NC report was filed. He submitted that thus, the applicant has not shown any regard to the order passed by this Court as to the inducement and threatening to the witnesses. He submitted that if the applicant is released on bail, he would threaten the witnesses and the entire investigation would hamper as well as there would be tampering of the witnesses. In view of that, the application deserves to be rejected.

5. After hearing the learned counsel for the applicant and learned APP for the State, perused the entire investigation papers from which, it reveals that as per the allegation the applicant came at the spot of incident on the call of the co-accused. From the recitals of the FIR it reveals that the applicant has instigated the co-accused and one stray sentence is mentioned in the FIR that on the instigation of the present applicant, the co-accused has driven the

vehicle on the person of the deceased. During the investigation, the statements of various witnesses are recorded wherein first time in what manner the instigation was there stated by the witnesses. Thus, the statement which are recorded on 26.07.2024 i.e. after the lapse of one month first time the specific words uttered by the applicant showing instigation to the co-accused to drive the vehicle is apparent. Initially, the statement of these witnesses are recorded by the Investigating Officer wherein they have not narrated in what manner that instigation was there.

6. A question arises as to when is a person said to have instigated another? The word of 'instigate' literally means to goad or urge to provoke or encourage to do an act which the person otherwise would not have done. It is well settled that in order to amount to abetment there must be *mens rea*. Without knowledge or intention there cannot be any abetment. The knowledge and intention must relate to the act said to be abetted which in this case is absent from the investigation papers. Moreover the statement which attributed the instigation to the present applicant is after lapse of one month. As far as the tampering of the witnesses is concerned, one NC report is filed by the witness to show that the witnesses were threatened by the present applicant. Merely lodging the NC report is not sufficient to reject the application of the present applicant. Considering

the role of the present applicant, he has made out a case for grant of anticipatory bail, at the same time, some stringent conditions deserves to be imposed on the present applicant. In view of that, I proceed to pass following order:

ORDER

(a) The application is allowed.

(b) In the event of the arrest in connection with Crime No.168/2024 registered with Police Station Amdapur, Tq. Chikhli, District – Buldhana, for the offence punishable under Sections 302, 109, 504, 506 read with Section 34 of the Indian Penal Code, the applicant **Sanjay Shrikrishna Ingle** shall be released on anticipatory bail on executing PR bond of Rs.25,000/- with one surety of like amount.

(c) The applicant shall attend the concerned Police Station as and when required for the investigation purpose.

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

(e) The applicant shall not communicate with any of the witnesses who are acquainted with the facts of the case. On finding this communication with any of the witlessness would lead to cancellation of the bail.

(6)

45.aba.544.2024

(f) The applicant shall not enter into the vicinity of village Dhotrabhangoji, till culmination of the trial.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate