



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

CRIMINAL APPLICATION (ABA) NO. 563 OF 2024

Rahul s/o Budhararam Khanderao 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. K.R. Giripunge, counsel h/f Mr. S.V. Sirpurkar, counsel for applicant.
Mr. K.R. Lule, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/08/2024.

1. Apprehending the arrest at the hands of police, in connection with crime No. 155/2024 registered with Police Station Jalamb, District – Buldhana, for the offence punishable under Sections 108 read with Section 3(5) of the Bharatiya Nyaya Sanhita, 2023, the applicant approached this Court for grant of pre-arrest bail.

2. Heard learned counsel for the applicant who submitted that the crime is registered on the basis of a report lodged by wife of the deceased alleging that there was a money transaction between the present applicant and the deceased. Though the deceased has not received the amount, he was harassed by visiting his office, and the deceased felt humiliated, and therefore, he committed suicide. On the basis of said report, police have registered the crime against the present applicant.

3. He further submitted that the mere allegation of demanding the amount is not sufficient to abet the deceased

to commit suicide. He further submitted that, as far as the custodial interrogation is concerned, it is not required. The other co-accused is already protected by this Court by granting anticipatory bail. In view of that, the present applicant is protected by granting anticipatory bail.

4. Learned APP strongly opposed the said application on the ground that the deceased is not only harassed by the present applicant, but the present applicant has visited his office, humiliated him, and therefore, he committed suicide.

5. After hearing learned counsel for the applicant and on perusal of recitals of the FIR, it reveals that out of money transactions, there was a dispute between the deceased. The suicide note was found along with the deceased, wherein the names of the present applicants are mentioned. It is alleged that the present applicant has visited the school where the deceased was serving as a headmaster, and there was a hot exchange of words between them. Due to which, the deceased felt humiliated, and thereby he committed suicide.

6. Moreover, Section 306 of the Indian Penal Code, 1860, has been analyzed time and again by the Hon'ble Apex Court. The Hon'ble Apex Court in the case of ***Shabbir Husain vs State of Madhya Pradesh (2021) 17 SCC***, wherein has observed that; in order to bring a case within the provision of Section 306 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 to observed 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 IPC.

7. Moreover, the suicide note is already seized, as far as the name of the present applicant is concerned, which is mentioned in the suicide note by mentioning that either money is to be obtained from the present applicant otherwise his agricultural land. Thus, considering that the entire incident occurred out of the money transaction. As far as the positive act is concerned, which do not reveal from the suicide note. Moreover, custodial interrogation is not required. In view of that, ad-interim anticipatory bail granted to the present applicant, deserves to be confirmed. Accordingly, I proceed to pass the following order;

ORDER

- a] Ad-interim protection granted to the present applicant by order dated 03/08/2024 is confirmed.
- b] The applicant shall attend the concerned police station once in a week on Sunday between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.

- c] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is disposed of.

[URMILA JOSHI-PHALKE, J.]