



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

CRIMINAL APPLICATION (ABA) NO. 588 OF 2024

Sandeep s/o Shaligram Tantarpage 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. D.S. Khushalani, counsel for the applicant.

Mr. S.S. Hulke, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/09/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No.316/2023 registered with Police Station Shirajgaon, District – Amravati, for the offence punishable under Sections 306 read with Section 34 of the Indian Penal Code, the applicant approached to this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of a report lodged by Rohini Rahul Dakhane, who is the wife of the deceased, alleging that the present applicant induced the deceased to invest the amount in a cryptocurrency. Initially, he has received the benefits by the same, but subsequently, he has not received the said benefits, and the amount was duped. It is alleged that inducement by the present applicant and the other co-accused, the deceased, has invested the amount, and as he has not received the amount, he was under stress, and therefore, he committed suicide.

3. Learned Counsel for the applicant submitted that as far as the ingredients of the offence are concerned, there should be a positive act to abet the deceased to commit suicide. Merely demanding the amount is not sufficient to make out the offence under Section 306 of the Indian Penal Code. As far as the custodial interrogation is concerned, which is not required. In view of that, interim protection granted to the present applicant deserves to be confirmed.

4. Learned APP strongly opposed the said application on the ground that due to inducement of the present applicant, the deceased has invested the amount and therefore, due to frustration, he has committed suicide, as he has not received the returns out of that investment. Thus, considering the gravity of the offence, prayer for grant of ad-interim protection deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the state, and after considering the investigation papers, it reveals that the deceased has written the suicidal note, which is seized by the investigating agency which shows the name of the present applicant. It reveals that, as per the allegation, at the instance of the present applicant, the deceased has invested the amount and he has not received the returns, and therefore, he has committed suicide. It is well settled that to attract the provisions of Section 306 of the Indian Penal Code, there must be a case of suicide, and in the commission of said occurrence is concerned, 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 facilitated the commission of the crime. The Hon'ble Apex Court in the case of *Shabbir Hussain vs. State of Madhya Pradesh and others [(2021) 17 SCC 807]* reiterated this proposition.

6. In the light of the above observations and considering the allegations, which are general in nature, the custodial interrogation of the present applicant is not required. In view of that, the prayer for grant of ad-interim protection deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] The ad-interim protection granted to the present applicant by order dated 14/08/2024 is hereby confirmed with further modification that, applicant shall attend the concerned police station once in a week on every Monday between 10.00 a.m. to 01.00 p.m. till filing of the charge-sheet.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]