



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

CRIMINAL APPLICATION (BA) NO.1048 OF 2024

Maya w/o Domaji Kodape and another

Vs.

The State of Maharashtra, Through Police Station Officer, Police Station,
Kelvad, District 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. P. Sonwane, Counsel for the applicants.
Mrs. Shamshi Haider, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/11/2024

1. The applicants came to be arrested on 17.10.2024 in connection with Crime No.562/2024 registered with Police Station, Kelvad, District Nagpur for the offences punishable under Sections 108 and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of a report lodged by Sachin Gajanan Bawane, who is the brother of the deceased. On an allegation that he has two brothers namely, Roshan and Nitin and residing separately. On 06.10.2024 at about 09.00 a.m., the present applicants alleged that the deceased had committed theft at their house, and on that account, the deceased was assaulted by them. Being humiliated in presence of the other villagers, the deceased has committed suicide by writing a suicide note by hanging himself. On the basis of the

said report, police have registered the crime against the present applicants.

3. Heard learned Counsel for the applicant who submitted that as far as the allegations against the present applicants that they have aided and instigated or abetted the deceased to commit suicide are not substantiated by any material which is collected during the investigation. He submitted that the deceased has committed suicide due to the other reasons, by taking disadvantage of the previous dispute between the complainant and the applicants, the applicants are falsely implicated in the alleged offence. He submitted that even the suicide note is not sufficient to show that due to the abetment at the hands of the present applicants, the deceased has committed suicide. Now, the investigation is practically completed. Though the charge sheet is not filed, further incarceration of the present applicants is not required. In view of that, they be released on bail.

4. Learned APP strongly opposed the said application and submitted that the deceased was alleged to have committed the theft by the present applicants and on that count, he was assaulted in the village in presence of the villagers, due to which, the deceased felt insulted and humiliated and which is sufficient reason for the deceased to commit suicide and thereby he committed suicide. She submitted that considering the statements of the various

witnesses, and the suicide note *prima facie* case is made out against the present applicants. In view of that, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, it reveals that the deceased has committed suicide by writing a suicide note that he was assaulted by the present applicants in presence of the villagers and therefore, he felt humiliated and therefore, he committed suicide. It is well settled that to constitute the offence of abetment to commit suicide the abettor must be shown to have intentionally aided the commission of the crime. Mere proof that the crime charged could not have been committed without the interposition of the alleged abetment is not enough compliance with the requirements of Section 107 of the Indian Penal Code. To constitute the offence of abetment it is necessary to show that the deceased was abetted by instigation or by aiding and there was no alternative before the deceased, but to commit suicide and thereby deceased has committed suicide. At this stage, it is not necessary to evaluate the evidence whether the offence of abetment is made or not. But considering now the investigation is practically completed. Though the charge sheet is not filed, further incarceration of the present applicants is not required. The offence alleged is not punishable with imprisonment of more than ten years. For all the above reasons, the applicants have made out a case

(4)

47.ba.1048.2024.b.

for grant of bail. Accordingly, I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **No.(1) Maya w/o Domaji Kodape and No.(2) Chandrashekhar s/o Hiranmanji Wanjari** shall be released on bail in connection with Crime No.562/2024 registered with Police Station, Kelvad, District Nagpur for the offences punishable under Sections 108 and 3(5) of the Bharatiya Nyaya Sanhita, 2023, on executing PR Bond of Rs.25,000/- each with one solvent surety in the like amount.

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

(iv) The applicants shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)