



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

CRIMINAL APPLICATION (ABA) NO. 514 OF 2024

Mohan Ukarda Morkhede and anr.

Vs.

State of Maharashtra, Thru. PSO, PS Shegaon City, Tq. & District – Buldhana

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. N.V. Dhage, Advocate for applicant.

Mrs. R.V. Sharma, APP for non-applicant/State.

CORAM : SMT. URMILA JOSHI PHALKE, J.

DATE : 08.08.2024

Apprehending the arrest at the hands of police in connection with Crime No.150/2024 registered with Police Station Shegaon City, District – Buldhana, for the offence punishable under Sections 306 r/w Section 34 of the Indian Penal Code, the applicants approached to this Court for grant of pre-arrest bail.

2. The applicant No.1 is the son and applicant No.2 is the daughter-in-law of the deceased. The FIR is lodged by the brother of the deceased on an allegation that the present applicants, who are son and daughter-in-law of the deceased, ill-treated her mentally as well as

physically. The present applicants drove her out, even she was abused and attempt of assault was also there. Being fed-up with the said ill-treatment at the hands of the present applicants, who are the son and the daughter-in-law, she has committed suicide by jumping in front of the train. On the basis of the said report, police have registered the crime against the present applicants.

3. It is submitted by the learned counsel for the applicant that the suicide note seized by the investigating agency during the investigation itself is doubtful as the deceased was illiterate lady and she was not knowing reading or writing. He further submitted that as far as the custodial interrogation is concerned which is not required as nothing is to be recovered from the present applicants and therefore, they be protected by granting anticipatory bail.

4. Learned APP for the State strongly opposed the said application on the ground that the mother was harassed and ill-treated and abetted to commit suicide by harassing her mentally as well as physically and there was no other alternate before her but to commit suicide and therefore, she has committed suicide. Thus, considering the material against the present applicants, the case for grant of

anticipatory bail is not made out. She also pointed out from the investigation papers that prior to the incident, mother has issued a legal notice through her Advocate, the present applicants alleging that the manner in which she was subjected for the harassment. Thus, she submitted that even if the suicide note is discarded. There is material to show that the present applicants were instrumental in harassing the deceased and therefore, the *prima facie* case is made out against the present applicants. 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 investigation papers from which it reveals that the FIR is lodged by the brother of the deceased. The investigation papers further shows that prior to the incident the deceased has also issued a notice to the present applicants through her counsel alleging the harassment at the hands of the present applicants. The nature of the harassment is that she was kept without food, abused, assaulted, drove out of the house. Thus, the present applicant No.1, who is the son of the deceased instead of maintaining her in-her old age subjected her for harassment and due to

which, there was no alternative for her but to commit suicide. This allegation is not only substantiated by the notice issued by the deceased prior to the incident through her counsel but the statement of her counsel and the statements of the other witnesses substantiates and shows that since April, 2018, the deceased was not given medical treatment, she as well as she was abused, assaulted and driven out of the house which constrained her to commit the suicide.

6. Section 306 of the Indian Penal Code provides that whoever abets the commission of such suicide, shall be punished with imprisonment and shall also be liable to fine. Section 107 of the Indian Penal Code defines abetment of a thing which illustrates a person abets the doing of a thing to instigate any person to do that thing or engages with one or other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing or intentionally aids, by any act, or illegal omission, the doing of that thing. Section 306 of the Indian Penal Code has been analysed time and again by the Hon'ble Apex Court also, a person is said to have instigated mixed to

goad or urge to provoke or encourage to do an act which the persons otherwise would not have done. It is well settled that in order to amount the 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 the act of committing suicide. Therefore, in order to constitute abetment while instigation there must be direct incitement to do the culpable act. After going through the investigation papers it reveals that since 2018, there was a mental harassment to the deceased, not only the mental harassment but the physical harassment also and therefore, there was no other alternative before her but to commit the suicide. Thus, *prima facie* case is made out against the present applicants and therefore, the bail application for grant of anticipatory bail deserves to be rejected. Accordingly, I proceed to pass the following order : -

ORDER

The criminal bail application is rejected.

(SMT. URMILA JOSHI PHALKE, J)