



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

949 ANTICIPATORY BAIL APPLICATION NO. 27 OF 2025
WITH
CRIMINAL APPLICATION NO. 245 OF 2025 IN ABA/27/2025

SHYAM @ SHYAMSUNDAR VYANKATI LUTE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. S.R. Bagal h/f. Mr. B.N. Gadegaonkar
APP for Respondents 1 & 2 : Mr. G.O. Wattamwar
Advocate for assisting APP : Mr. Mr. U.B. Bilolikar
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 07.02.2025

PER COURT :

1. The Criminal Application No. 245/2025 filed for assisting APP is allowed. Mr. U.B. Bilolikar, learned advocate is permitted to assist APP.
2. Heard the learned counsel for the applicant, the learned APP for the respondents-State and Mr. U.B. Bilolikar, learned advocate assisting APP.
3. The applicant is apprehending arrest in connection with Crime No. 362/2024 dated 2.12.2024 registered with Mukhed Police Station, District Nanded for the offence punishable under sections 108 of B.N.S., 2023.
4. This court has granted interim protection to the applicant by order dated 13.1.2025 by noting the submissions and reasons at para 3 of the order, which is as under :-

"3] Perused the papers. From the papers it appears that the telephonic conversation between the applicant and the deceased that the deceased who is telling to the applicant that the applicant would kill him. There is no statement from the applicant to the deceased that he would harm the applicant. Also, there is no clear evidence of any witness that the applicant was seen in the company of the deceased on the date of the incident. Considering the same interim

protection is granted."

5. The learned counsel for the applicant submits that in pursuance of the interim order of this Court, the applicant has attended the police station and has cooperated with the investigation.

6. The learned APP, so also the learned counsel appearing for the original informant submit that grave offence of abatement of suicide is committed by the applicant.

7. However, in the case of **Mahendra Awase Vs. State of Madhya Pradesh reported in 2025 SCC OnLine SC 107**, the Hon'ble Supreme Court has laid down the law in respect of abatement of suicide at para Nos. 13, 14 and 15 as under:-

"13. In *Swamy Prahaladdas vs. State of M.P.*, [1995 Supp (3) SCC 438], the appellant remarked to the deceased that 'go and die' and the deceased thereafter, committed suicide. This Court held that:-

"3. ...Those words are casual nature which are often employed in the heat of the moment between quarrelling people. Nothing serious is expected to follow thereafter. The said act does not reflect the requisite 'mens rea' on the assumption that these words would be carried out in all events. ..."

14. In *Madan Mohan Singh vs. State of Gujarat*, (2010) 8 SCC 628, this Court held that in order to bring out an offence under [Section 306](#) IPC specific abetment as contemplated by [Section 107](#) IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required. It was further held that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting [Section 306](#).

15. In *Amalendu Pal alias Bhantu Vs. State of West Bengal*, (2010) 1 SCC 707, this Court held as under:-

"12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under section 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence

adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of [Section 306](#) IPC is not sustainable. [Emphasis supplied]”

8. In view of the above, in order to bring out an offence under [Section 306](#) IPC specific abetment as contemplated by [Section 107](#) IPC on the part of the accused with an intention to bring about the suicide of the person concerned as a result of that abetment is required and the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for attracting [Section 306](#). Considering the facts situation of this case, and interim protection granted vide order dated 13.1.2025 can be confirmed.

9. In view of the above, the application is allowed and the interim protection granted on 13.1.2025 is confirmed on the following terms :

i] The applicant shall attend the police station as and when required.

ii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iii. The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

10. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

11. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12. The application stands disposed of.

[ARUN R. PEDNEKER, J.]

SSC/