



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

936 ANTICIPATORY BAIL APPLN. NO.807 OF 2025

1] KAPIL VISHNU DABHADE

2] KUNAL KAPIL DABHADE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr.R.V.Gore
APP for Respondent-State : Mr.S.P.Sonpawale

...

CORAM : ARUN R. PEDNEKER, J.
[VACATION COURT]

DATE : 16.05.2025

P.C. :

1] Heard learned counsel for the applicants and the learned APP for the respondent-State.

2] The applicant is apprehending arrest in connection with Crime No.0174/2025, registered with Chandanzira Police Station, Dist. Jalna, for the offence punishable under Section 108, 3 (5) of the Bharatiya Nyaya Sanhita, 2023.

3] The allegation against the applicants is that the applicants have threatened and assaulted the deceased. Thereafter, the deceased has committed suicide by hanging himself.

4] 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]”

5] 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 same, the offence under Section 108 of the B.N.S., 2023 would not attract against the present applicant. In view of the above, the application is allowed in the following terms :

i] In the event the applicants are arrested in connection with Crime No.0174/2025, registered with Chandanzira Police Station, Dist. Jalna, for the offence punishable under Section 108, 3 (5) of the Bharatiya Nyaya Sanhita, 2023, they shall be released on bail on furnishing PR bond of Rs.20,000/- each, with one or two sureties in the like amount to the satisfaction of the trial Court.

ii] The applicants shall attend the concerned police station as and when required by the investigating officer.

iii] The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case.

iv] The applicants shall co-operate with the investigation and also in the proceedings before the trial Court.

6] In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

7] 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.

8] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE