



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

952 BAIL APPLICATION NO. 936 OF 2025

**PRADEEP SAMBHAJI TARKE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for the applicant : Mr.A.D.Hande
APP for Respondent-State : Mr.V.N.Patil-Jadhav
...

**CORAM : ARUN R. PEDNEKER, J.
DATE : 12.06.2025**

P.C. :

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

2] The applicant is seeking bail as he is arrested on 18.01.2025 in connection with Crime No. 204/2024, registered with Sonkhed Police Station for the offences punishable under Section 108, 352, 351 (2), 351 (3), 3 (5) of the B.N.S. 2023.

3] The FIR is lodged by Chandrakant Sanjay Kale on 08.11.2024 alleging that his brother Saheb Kale had taken a hand loan of Rs.5000/- for household expenses from the accused Pradip Tarke and that after 15 days, the present applicant Pradip Tarke has taken Rs.2000/- from

the deceased and thereafter the present applicant has demanded further amount from him on high interest. Thereafter, on 07.11.2024, when the deceased was going on motorcycle, three people Pradip Tarke, Bhagwan Khansole and Sachin More met him and demanded the said money from him and they beat him. At that time, the deceased called his brother and then Sachin More told him that they should resolve their dispute and then his brother Saheb told him to wait up to first of the next month. At that time, they forced him to give the money and had beaten him with slaps, fists and also threatened them. On being rescued from that place thereafter they parted company. On the very same day at night, Saheb Kale committed suicide and was found on the *lim* tree. As such, the FIR is registered against the present applicant.

4] Thereafter, the applicant has filed Bail Application before the Additional Sessions Judge, Kandhar and the same was rejected on 21.04.2025 on the ground that there is possibility of the offence under Section 302 of the IPC. However, the investigation is complete in the matter. Now the charge sheet is filed. The statement of Sachin More is recorded on 09.11.2024 wherein he stated that he is witnessed of the fight between the accused and Sahebrao Kale and Chandrakant Kale and the accused persons have assaulted them by fist and blows by saying that they will kill them and thereafter they had left. As such,

there is no possibility of the accused hanging the deceased. There is no further evidence collected by the prosecution indicating that the deceased was hanged by any other person. The prosecution has thus filed the charge sheet under Section 306 of the IPC only.

5] The victim has taken hand loan from the applicant of Rs.5000/- and the applicant has insisted for payment of Rs.5000/- on high interest. Considering this aspect and considering the allegations made in the complaint, *prima facie* it cannot be said that the applicant has instigated or driven the deceased to commit suicide. The Law of applicability of Section 306 of the Indian Penal Code is discussed by the Hon'ble Supreme Court in ***Mahendra Awase v. The State of Madhya Pradesh (Criminal Appeal No. 221 of 2025, decided on 17/01/2025)***, referred to paragraph 12 of its earlier judgment in ***Amalendu Pal alias Jhantu v. State of West Bengal, (2010) 1 SCC 707***, which states 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 of IPC is not sustainable."

6] In paragraph No.16 of the Judgment in case of ***Mahendra Awase (Supra)***, the Hon'ble Supreme Court has observed as under : -

"16. In order to bring a case within the purview of Section 306 IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306 IPC."

7] In the case of ***Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618***, the Hon'ble Supreme Court observed as follows : -

"Instigation is to goad, urge forward, provoke, incite or encourage to do 'an act'. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a

continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation."

8] Considering the law discussed above and the facts of the case, *prima facie* it cannot be said that the applicant has instigated or driven the deceased to commit suicide. The applicant is in custody from 18th January, 2025. Considering the facts situation of this case, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No. 204/2024, registered with Sonkhed Police Station for the offences punishable under Section 108, 352, 351 (2), 351 (3), 3 (5) of the B.N.S. 2023, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant shall not enter the jurisdiction of concerned Police Station during pendency of the trial.

c] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

d] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

e] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

f] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

9] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

10] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE