



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

926 ANTICIPATORY BAIL APPLN. NO.2156 OF 2024

1] ANNASAHEB @ KALURAM BALU GAIKWAD

2] MAYUR DNYANESHWAR GUNJAL

VERSUS

THE STATE OF MAHARASHTRA & ANOTHER

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Advocate for Applicants : Mr.S.P.Nimbalkar

APP for Respondent-State : Ms.Neha B. Kamble

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CORAM : ARUN R. PEDNEKER, J.

DATE : 07.03.2025

P.C. :

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

2] The applicants are apprehending arrest in connection with FIR No. 0361/2024, registered with Virgaon Police Station, Dist. Aurangabad, for the offence punishable under Sections 3 (5) and 108 of the Bharatiya Nyaya Sanhita.

3] This Court, by order dated 27.02.2025, has granted interim protection in favour of the applicants for the submissions and reasons stated in para nos. 3 to 5, as noted below :

3] The allegation against the present applicants is that the applicants carries the business of sand and they falsely implicated Krishna, son of deceased, in the crime. Therefore, the deceased asked the applicants to withdraw name of his son from the crime, however, the name of the son of the deceased is not withdrawn, due to the said reason, the deceased has committed suicide. On the basis of the said allegation, the FIR is lodged.

4] However, considering the law on this aspect 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 Bhanu 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 facts situation of this case, it cannot be said that the applicants not having withdrawn the name of the son of the deceased from the alleged offence intended the deceased to commit suicide and thus the applicants are granted interim protection in the following terms.

4] The learned counsel for the applicants submits that in pursuance of the aforesaid order, the applicants have attended the concerned police station and have co-operated with the investigation.

5] The applicants had co-operated with the investigation, is not disputed by the learned APP.

6] In view of the above, the interim protection granted by order dated 27.02.2025 stands confirmed, in the following terms :

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

ii] 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.

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

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

8] 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.

9] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC