



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 939 OF 2025

Nihal s/o Jafarsaab Saudagar .. Applicant

VERSUS

The State of Maharashtra & another .. Respondents

Mr. A. A. Mukhedkar, along with Mr. A. V. Patil Indrale, Advocates for the Applicant.

Mr. A. V. Lavte, APP for the State.

Mr. N. D. Sonavane, Advocate for the Informant.

CORAM : ADVAIT M. SETHNA, J.

DATE : 27 JUNE 2025.

P. C. :

1. The Applicant has filed the present Application in anticipation of his arrest.

2. The proceedings relate to the Crime No. 0164/2025 registered by Deoni Police Station, District Latur. The First Information Report (for short '**FIR**') is dated 14 May 2025 at 14.42 hours. The Section invoked 108 of Bharatiya Nyaya Sanhita, 2023 (for short '**BNS**'). The occurrence of the incident is 23 April 2025 at 14.30 hours. The information received by the Police Station is on 14 May 2025 at 14.42 hours. The Informant is one Latabai Basweshwar Swami, aged 50 years, who happened to be the wife of the deceased Basweshwar Kashinath Swami.

CASE IN THE FIR :

3. It is stated that since the last 30 years, deceased, who is the

husband of the Informant was working as a Clerk in Rashtriya Vidyalaya, Takali, school administered by a trust. The Applicant was also working as the Assistant Teacher in the said school and also acted as the Secretary of the institution. The Applicant insisted the deceased to prepare school audit as per his say and threatened, pressurised him to be dismissed/removed from the school, if his directions were not followed. There has been frequent harassment by the Applicant to the deceased. When his wife i.e. the Informant tried to convince/pacify the deceased, he would state that he did not want to live. The deceased had narrated such harassment caused by the Applicant to the Informant and to one Madhav Jadhav, Incharge Headmaster, Devidas Bansode and Kashinath Gharvale, Peons, who have witnessed the harassment. The deceased was under tremendous tension. In order to avoid such harassment the deceased was willing to take voluntary retirement. But the Applicant using his position as Secretary of the school, threatened the deceased with dire consequences.

4. On 22 April 2025, in the morning hours, the deceased left his house to go to the school and did not return late in the evening. After undertaking search, it was learnt that he died by falling and drowning in the Manjara river, Beed in the vicinity of village Jawalga. Accordingly, on 23 April 2025, at 14.30 hours the report was lodged by the Informant on the basis of which, the FIR came to be registered.

SUBMISSIONS :

5. The learned Advocate for the Applicant would first submit that the Applicant has been falsely implicated in the said FIR. The Applicant has no connection whatsoever with the allegations made in the FIR against him, more particularly, in the context of Section 108 of BNS. There is

nothing on record, according to him, to show any overt act of inducement/instigation on the part of the Applicant which may have resulted in the deceased to commit suicide. He would submit that the Applicant is the Member of one Bahuddeshiya Shikshkan prasarak Mandla, Walandi. The Applicant and his party members filed change report in the light of which certain disputes cropped up between the members of the educational institution. In the light of such dispute, discord, to avenge the same the Informant has filed the present report leading to the FIR with a clear intent to frame the Applicant. He would submit that the deceased was sick and he could not attend the school. Therefore, the then Incharge Headmaster had issued notice on 9 August 2024 to the deceased about his continuous absence from the job. Accordingly, as the deceased was not able to perform his duties and meeting with the job profile, he filed an Application for voluntary retirement before the Administrator of the school and Incharge Headmaster. Such facts and circumstances would clearly indicate that the deceased in no manner whatsoever was harassed by the Applicant and the allegation of suicide is false only to implicate the Applicant.

6. On the other hand, the learned APP would support the contents of the FIR and relying upon the same would submit that a clear case under Section 108 of BNS has been made out against the Applicant. There are numerous instances as noted in the FIR which would make it evident that the deceased was harassed by the Applicant for preparing the audit report of the school in a particular manner. As the deceased did not succumb to such demands, the Applicant threatened the deceased. He would also submit that such threats were constantly given to the deceased. When the latter informed the Applicant about he taking voluntary retirement. The Applicant being an influential person,

threatened him with dire consequences including losing his job and his pension being stopped. It is pursuant to these inducement/threats he left home on 22 April and ended his life on 23 April 2025 by drowning in Manjra river. In such circumstances, the Anticipatory Bail Application deserves to be rejected and in order to find out the real cause of his death, custodial interrogation in the given facts becomes essential.

FINDINGS :

7. Heard the learned Advocates for the parties and with their assistance perused the record.

8. A perusal of the FIR and the record would indicate that the Applicant allegedly threatened and pressurised the deceased to prepare the school's accounts from the year 2008 as per his instructions, to be submitted for the purpose of audit. As the deceased did not act on the explicit instructions of the Applicant, in terms of preparing such accounts, bank statements for audit, the Applicant would threaten the deceased that he being the Secretary of the institution and his wife being the President of the new Executive Committee, the Applicant would see how the deceased would continue in the job. The deceased was pushed to take voluntary retirement from the job, as he could not work on the whims of the Applicant. It appears that the deceased was again threatened by the Applicant to state that as he was the Secretary of the institution he would see as to how the deceased would take voluntary retirement and would ensure that the deceased would not get his pension. The case diary reveals that the deceased had confided about such alleged harassment from the Applicant to his wife, son and daughter making specific reference to such instances. The statements of the said family members are consistent and support the contents of the FIR in regard to continuous

harassment including alleged threats by the Applicant to the deceased time and again. Such statements/investigation material would also corroborate the contents in the FIR to the effect that it was in such circumstances that on 22 April 2025, the deceased left at 7.00 am in the morning from his school for school and did not return home. On 23 April 2025, at around 2.30 pm, when enquiries were made, his wife learnt that the deceased had drowned in the Manjara river bed and died.

9. At this juncture, it would be pertinent to also refer to the various statements of the colleagues of the deceased in the FIR recorded during investigation which being part of case diary, were produced before the Court. I have perused the same. The statements more particularly of the said colleagues of the deceased including the then Headmaster of the school indicate that it was the constant threats and harassment from the Applicant that caused him tremendous stress and the deceased expressed to end his life.

10. The learned APP has also pointed out that this Applicant has criminal antecedents. One is in relation to FIR No. 109/2012 for offences punishable under Sections 420 read with Section 34 of the Indian Penal Code (for short '**IPC**'). However, the Advocate for the Applicant submits that proceedings in this regard were quashed under Section 482 of the Code of Criminal Procedure (for short '**Cr.P.C.**') by an order of this Court dated 30 July 2018. There is also FIR in Crime No. 3001/2014 registered against this Applicant for offences *inter-alia* punishable under Section 13(1) and 13(2) of The Prevention of Corruption Act for alleged demand of bribery from the Complainant therein where this Applicant/accused was caught with the bribe amount. There is also FIR No. 0129/2025 registered under Sections 420, 465, 471 read with Section 34 of the IPC

where the present Applicant is one of the accused. According to the learned Advocate for the Applicant, this FIR was filed pursuant to the disputes in regard to the change reports filed before the Assistant Charity Commissioner in relation to ongoing disputes with matters of the trust. In this context, it is submitted that the Applicant in the said alleged crime was enlarged on regular bail whereas the other accused persons were granted anticipatory bail by the Court. The trajectory of antecedents would indicate that the Applicant has a background of being involved in acts of cheating, bribery etc. The last one being registered in the year 2025. Apart from his role and/or complicity in the serious allegations against the Applicant, such antecedents which are in regard to offences of similar nature cannot be given a complete go by at this prima facie stage. This is not a case, in my view where one can completely shut one's eye to such criminal record of the Applicant.

11. It may be relevant at this stage to consider that as noted in the FIR, a case of accidental death was registered against this Applicant on 2 May 2025 under Section 194 of BNS. In such peculiar facts and circumstances, it may not be plausible to conclude that the delay if any, in lodging the FIR, being satisfactorily explained, is fatal, as submitted by the learned Advocate for the Applicant. The legal principles in the cases cited by the Advocate for the Applicant are not disputed. However, a careful perusal of those clearly indicate that the present facts and circumstances are distinct. In fact as provided under Section 108 of BNS (306 of IPC), prima facie analysis of the the material on record, appears to be a proximate link between the alleged threats, instance of harassment and the subsequent death of the deceased due to drowning in the river. From the conduct of the accused, prima facie, it is difficult to conclude that there is complete absence of *mens rea* at this stage, and/or absence of

direct/positive act or omission by the Applicant to instigate or aid in the commission of suicide by the deceased, as held by the Supreme Court in ***Jaydeepsinh Pravinsinh Chawda and others vs. The State of Gujrat***¹.

12. The factual complexion of the present proceedings would necessitate a thorough investigation considering the nature of accusations, gravity of offences and a prima facie case against the accused been made out by the prosecution. The prosecution's submissions that in the peculiar facts and circumstances where there are ongoing disputes in the matters of the trust qua Applicant, a possibility of him influencing the witnesses cannot be completely discarded, at this stage.

13. In the light of the foregoing reasons, custodial interrogation of the Applicant is required. The Anticipatory Bail Application deserves to be dismissed by the following order :-

ORDER

- A. Anticipatory Bail Application No. 939/2025 is rejected.
- B. Criminal Application No. 1900/25 to assist the PP and/or any other interim Application filed would not survive and are disposed of accordingly.

(ADVAIT M. SETHNA)
Judge

dyb