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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2731/2024

EKTA MOHANLAL SHRIMALI ..APPLICANT
VS.
STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Adv. Shreyansh Mithare a/w. Adv. Anjali Nimbkar, Adv. Shobhit Desai
for applicant.

Ms. Supriya Kak, APP for State.

Adv. Divya Arvind Pawar for respondent no.2.

PI Satish Umare, Goregaon Police Station, Mumbai.

CORAM : RAJESH S. PATIL, J.

DATE : APRIL 15, 2025.

P.C. :

1. This application is filed under Section 438 of the Code of Criminal Procedure for seeking pre-arrest bail in connection with the First Information Report (FIR) No.663/2024 registered with Goregaon Police Station, Mumbai, for the offence punishable under Section 306 of the Indian Penal Code, 1860.

2. On the basis of the complaint lodged, an FIR has been filed. It is the case of the applicant that the deceased on 24/6/2024, came to the house of the present applicant. It could be seen that he was

completely upset with something and directly entered the bedroom. A lady by name Swati Maurya who had acquaintance with the present applicant was present in the house of the applicant. The deceased after entering into the house directly went to the bedroom where he committed the act of suicide. Thereafter, the present applicant along with the help of Swati Maurya put the deceased's body on the ground, when the deceased sustained head injury.

3. The applicant is a lady with no criminal antecedents against her. She is unmarried and staying alone. The deceased had come to her house. There are relationship between the deceased and the present applicant. The deceased was a married man having two children. The present applicant had not induced the deceased in committing the act of suicide. Even the IO has filed an FIR after two months from the date of the incident invoking Section 306 of the IPC. The applicant is ready to cooperate with the police. Therefore, the pre-arrest bail be granted to the applicant.

4. The learned APP submits that the offence is serious one and the applicant is absconding since the date of the offence. The applicant was having knowledge that the deceased is married man and having a family. There is an allegation that the applicant had

borrowed monies from the deceased. The investigation is in progress and therefore, there is every possibility of tampering with the prosecution evidence and the witnesses. When the incident occurred, the present applicant was present in her house. The custodial interrogation of the present applicant is necessary in order to check how there was a bodily injury on the head of the deceased.

5. The learned counsel appearing on behalf of the informant submits that it has to be found out that how there was injury on the head of the deceased and why the applicant did not made attempt to prevent the deceased from committing the act of suicide. Hence, for all these purposes, the custody of the applicant is necessary.

6. I have heard the learned counsels for both sides and the learned APP for State. I have also gone through the FIR and the documents on record.

7. The applicant is a unmarried lady. It is alleged that the deceased was having extra marital affair with the present applicant and he used to visit the house of the applicant. On the date of the incident also the deceased went to the house of the applicant and it is alleged that after reaching home, he straightway went to the bedroom when one more lady by name Swati Maurya was present

along with the applicant. After some time, the applicant realize that the deceased has committed an act of suicide. The applicant made attempt to bring down the deceased as he had hanged himself with the fan. While doing so, the deceased got hurt on his head. The medical report which has been part of the record of the IO's investigation, revealed that only Section 306 of the IPC has been attracted. The applicant has no criminal antecedents.

8. There was no intention of the present applicant for abatement or to instigate the deceased to commit suicide. In series of judgments of the Supreme Court, the latest being in case of *Ayyub & Ors. vs. State of Uttar Pradesh & Anr.* in *Criminal Appeal No. 461 of 2025* dated 7th February, 2025, the Supreme Court has held that in order to make out an offence under Section 306 IPC, specific abatement 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 abatement is required. He submits that there is no antecedents against the present applicant. Therefore, the custodial interrogation of the present applicant is not necessary.

9. The Supreme Court in catena of judgments, has clarified the law as far as Section 306 read with Section 107 of the Indian Penal

Code is concerned. The Supreme Court in the judgment of *Prakash & Ors. vs. The State of Maharashtra & Anr., in Criminal Appeal No. 005543 of 2024 (Arising out of SLP (Cri) No. 1073 of 2023)* in paragraph 14 has held as under :-

14. Section 306 read with Section 107 of IPC, has been interpreted, time and again, and its principles are well-established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear *mens rea* to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide.

[Emphasis supplied]

10. So also, in the judgment of Supreme Court in case of *S.S.Chheena vs. Vijay Kumar Mahajan & Anr. (2010) 12 SCC 190* has considered the provisions of scope of section 306 of IPC and the ingredients which are essential for abetment, as setout in Section 107 of the IPC. Paragraphs 16, 18, 21, 23, 24 held as under:-

“16. The word “suicide” in itself is nowhere defined in the Penal Code, however its meaning and import is well known and requires no explanation. “Sui” means “self” and “cide” means “killing”, thus implying an act of self-killing. In short, a person committing suicide must commit it by himself, irrespective of the means employed by him in achieving his object of killing himself.

18. In our country, while suicide in itself is not an offence, considering that the successful offender is beyond the reach of law, attempt to suicide is an offence under Section 309 IPC.

21. The learned counsel for the appellant has placed reliance on a judgment of this Court in Mahendra Singh v.

State of M.P. [1995 Supp (3) SCC 731 : 1995 SCC (Cri) 1157] In Mahendra Singh [1995 Supp (3) SCC 731 : 1995 SCC (Cri) 1157] the allegations levelled were as under: (SCC p. 731, para 1)

“1. ... My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning.”

The Court on the aforementioned allegations came to a definite conclusion that by no stretch the ingredients of abetment are attracted on the statement of the deceased. According to the appellant, the conviction of the appellant under Section 306 IPC merely on the basis of the aforementioned allegation of harassment of the deceased is unsustainable in law.

23. In State of W.B. v. Orilal Jaiswal [(1994) 1 SCC 73 : 1994 SCC (Cri) 107] this Court has cautioned that: (SCC p. 90, para 17)

“17. ... The court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it [appears] to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.”

24. This Court in Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi) [(2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the words “instigation” and “goading”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of

its own facts and circumstances.

11. Considering the law laid down by the Supreme Court and the fact as narrated in the FIR, I am convinced that the custody of the present applicant is not required. Hence, the following order.

ORDER

- (a) **The anticipatory bail application is allowed.**
- (b) In the event of arrest in connection with FIR No. 663/2024 registered with Goregaon Police Station, Mumbai, the applicant shall be released on bail, on furnishing P.R. bond to the extent of Rs.30,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.
- (d) The applicant shall furnish details of her permanent residential addresses, contact numbers and email addresses to the Investigating Officer.
- (e) The applicant shall attend the concerned police station and meet the IO on 21/4/2025, 22/4/2025 and 23/4/2025 between

11.00 a.m. to 1.00 p.m. and thereafter, on every alternate Mondays between 11.00 a.m. to 1.00 p.m.

12. Needless to say that violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of this anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

13. The anticipatory bail application is disposed of.

(RAJESH S. PATIL, J.)