



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.518/2025

DNYANESHWAR NAMDEO MALI AND ORS ...APPLICANTS
VS
THE STATE OF MAHARASHTRA AND ANR ...RESPONDENTS

...

Adv. N. L. Chaudhary for the Applicants.
Adv. Rutuja A. Ambekar, APP for the Respondent State.

...

CORAM : RAJESH S. PATIL, J.
DATED : MAY 6, 2025

P.C.:

1. Mr. Chaudhari seeks liberty to amend the cause title as according to him, there is a typographical error in typing the name of applicant no. 2.

2. Liberty granted as prayed for. Amendment to be carried out forthwith.

3. Mr. Chaudhari has tendered a copy of the order dated 17 March 2025, passed by the Single Judge of this Court in Criminal Bail Application No. 873/2025 of three co-accused. For ease of reference, the said order is reproduced herein below.

“1. This is an application for regular bail.

2. The applicants came to be arrested In Crime No. 75 of 2025 registered at Malegaon Taluka Police Station, Dist-Nashik for the

offences punishable under Sections 108, 3(5), 189(2) & 191(1) of the Bharatiya Nyaya Sanhita, 2023.

3. The allegations against the applicants are of abetment of suicide. According to the prosecution, on 01.02.2025 at about 08:00 p.m. the deceased was returning home on motorcycle. At that time he accidentally hit the wife of applicant No.1. It is alleged that thus the present applicants and other co-accused assaulted the deceased and told him to pay the amount of medical treatment. It is alleged that as the deceased refused to pay the sald amount they snatched his motorcycle and mobile phones. It is further alleged that they told him to bring the amount of medical expenses by next day or else they would come to his village and would kill him. It is alleged that due to the sald act of the applicants and other co-accused on 02.02.2025 the deceased committed suicide by hanging himself.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent/State.

5. Prima-facie, from the facts and circumstances of the case, it is difficult to infer that the act of the applicants was of such a nature that the deceased had no option except to commit suicide. In that view of the matter, I am inclined to release the applicants on bail. In the result, the following order is passed:

ORDER

A] The Application is allowed.

B] The applicants be released on bail in Crime No. 75 of 2025 registered at Malegaon Taluka Police Station, Dist-Nashik for the offences punishable under Sections 108, 3(5), 189(2) & 191(1) of the Bharatiya Nyaya Sanhita, 2023 on furnishing PR Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) each with one or two sureties in the like amount.

7. Application stands disposed of accordingly.”

4. Considering the fact that the Single Judge of this Court is noted in paragraph no. 5 of the order dated 17 March 2025 that “it is difficult to infer that the act of the applicants was of such a nature that the deceased had no option except to commit suicide.”

5. 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]

6. 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 set out 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.

7. Considering the law laid down by the Supreme Court and

the contents of the FIR, I am of the *prima facie* view that at this stage, the custody of the present applicants is not necessary. Hence, the following order :-

ORDER

(a) **The anticipatory bail application is allowed.**

(b) In the event of arrest in connection with Crime No. 75/2025 registered with Malegaon Taluka Police Station, the applicants shall be released on bail, on furnishing P.R. bond to the extent of **Rs.30,000/- each** with one or more sureties each of the like amount.

(c) The applicants shall co-operate with the investigation and attend and meet the investigating officer on every Monday between 11.00 a.m. to 1.00 p.m. till filing of the charge-sheet.

(d) The applicants shall not contact the first informant/her family members or witnesses, in any form whatsoever.

(e) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade them from disclosing the facts to Court or any Police Officer and further, the applicants shall not tamper with the evidence in any manner whatsoever.

(f) The applicants shall furnish details of their residential addresses, contact numbers and e-mail addresses to the

investigating officer.

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

9. **The anticipatory bail application is disposed off as allowed.**

(RAJESH S. PATIL, J.)