

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 876 OF 2025

SHARADA BALASAHEB RUKARI

..... APPLICANT

VERSUS

THE STATE OF MAHARASHTRA & ANR.

..... RESPONDENTS

Mr. Amol Patankar a/w. Mr.Vatsal Thakkar, Mr.Neil Chandiwalla,
Ms.Sakshi Naik for the Applicant.

Mr. Amit A. Palkar, A.P.P. for the State.

Mr.Sachin Deokar for the Respondent No.2.

CORAM : RAJESH S. PATIL, J.

DATE : 8th APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 27/2025 dated 13th January, 2025 registered with Chinchwad Police Station, Pimpri-Chinchwad for the offences punishable under Sections 108, 351(2) of the Bharatiya Nyaya Sanhita, 2023.

2. Based on the complaint, an FIR has been filed. The role of the present applicant is mentioned in the said FIR.

3. It has been argued on behalf of the applicant that the present applicant is a widow 58 years of age. She has three daughters, two of her daughters are married and are staying with their husbands, younger daughter is studying in U.S. The husband of the present applicant had already died and she is staying alone. The flat in which she is staying is in a building wherein the family members of her husband are also staying in different flats. The deceased was her husband's elder brother. Unfortunately, the deceased committed a suicide due to mental pressure. 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.

4. On behalf of the first informant Mr.Deokar, the learned counsel

submits that it was because of the continuous harassment of the applicant, the deceased has committed suicide. The deceased was 70 years of age. He was the brother-in-law of the present applicant. The younger brother of the deceased, due to the harassment of the present applicant, left his premises in the same building and started residing at some other place. Due to the continuous harassment of the present applicant, everyone in the building has enmity towards the applicant. Therefore, the custody of the present applicant would be necessary.

5. The learned A.P.P. submits that at this stage, the custody of the present applicant is not necessary since the applicant lady is 58 years of age and a widow. There are no antecedents as far as the present applicant is concerned.

6. I have heard learned counsel for both the sides and I have also considered the FIR and the documents on record.

7. 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]

8. 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 “goadings”. 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.

9. Considering the law laid down by the Supreme Court and the contents of the FIR, the fact that the applicant is a widow lady, aged 58 years who is closely related to the deceased being brother's wife and after hearing the submissions of the learned A.P.P. that the custody of the applicant is not necessary as of today, I am of the *prima facie* view that at this stage, the custody of the present applicant is not necessary. The present anticipatory bail application is allowed. Hence, the following order :-

ORDER

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

(b) In the event of arrest in connection with Crime No. 27/2025 dated 13th January, 2025 registered with Chinchwad Police Station, Pimpri-Chinchwad for the offences punishable under Sections 108, 351(2) of the Bharatiya Nyaya Sanhita, 2023, the applicants shall be released on bail, on furnishing P.R. bonds to the extent of Rs.30,000/- each with one or more sureties of the like amount.

(c) The applicant shall co-operate with the investigation and attend and meet the Investigating Officer of the concerned Police Station on 21st April 2025 and 23rd April 2025 between 11:00 a.m. to 1:00 p.m. and thereafter as and when called.

(d) The applicant should not directly or indirectly contact the first informant in any form whatsoever.

(e) 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 further, the applicants shall not tamper with the evidence

in any manner whatsoever.

(f) The applicant shall furnish details of his residential addresses, contact numbers and e-mail addresses to the Investigating Officer.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant 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.

11. **The anticipatory bail application is disposed of.**

[RAJESH S. PATIL, J.]