



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.974/2025

SUREKHA SANTOSH KADAM

...APPLICANT

VS

STATE OF MAHARASHTRA

...RESPONDENT

...

Adv. Shailesh Charat a/w Onkar Chaudhari for the Applicant.

Adv. Pallavi N. Dabholkar, APP for the Respondent State.

PSI, Alok Bharat Jadhav Chikhali Police Station.

...

CORAM : RAJESH S. PATIL, J.

DATED : APRIL 16, 2025

P.C.:

1. The present application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No.32/2025 registered with Chikhali Police Station, Pimpri Chinchwad for the offences punishable under sections 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. As per the complaint filed, an FIR has been lodged. The role of the applicant has been stated in the FIR.

3. The learned counsel for the applicant submits that the present applicant is accused no. 4. Three of the accused persons have already been arrested and are behind bars which includes the husband of the present applicant. The applicant is a married lady and she has

two sons. The husband of the present applicant is already behind bars. The police have already filed charge-sheet against the arrested accused persons. The deceased has allegedly committed suicide. It is further alleged that even the son of the deceased had committed suicide. However, after investigation it is found that the present first informant, who is the husband of the deceased had himself killed his son. Therefore, the first informant has been arrested in the said crime and he himself is behind bars. There is no antecedent as regards the present applicant. The applicant is ready to co-operate with the investigation. Therefore, the custody of the present applicant is not necessary.

4. The learned APP submits that there is enough material against the present applicant. The statement recorded of the witnesses in the Court stated that the present applicant is also equally involved in the crime with her husband. The charge-sheet has been filed only against the arrested accused. The present applicant has been absconding. Therefore, the custody of the present applicant would be necessary in order to complete the investigation.

5. I have heard the counsel for both the sides and have gone through the contents of the FIR.

6. In the present proceeding the deceased has committed suicide and it is alleged that along with deceased lady even her son,

who was a minor has also committed suicide. However, subsequently the police have found that a minor son was in fact killed by his own father (who is the first informant in the present proceeding). Therefore, the first informant in the present proceeding has been arrested by the police and at present he is behind bars. In the present proceeding there is reference to two suicide notes. In the first suicide note, the name of the present applicant has been mentioned. Apart from the applicant's name, the name of all the accused have been mentioned.

7. The Supreme Court in the case of ***Patel Babubhai Manohardas & Ors vs. State of Gujrat [2025 SCC OnLine SC 503]***, in paragraph nos. 40 and 41 has held as under :-

“40. This takes us to the suicide note (Ex. 33). We have already noted the delayed and controversial circumstances under which the suicide note surfaced which makes it highly suspect. Nonetheless, since it was exhibited, let us deal with the same. Sum and substance of the suicide note allegedly written by Dashrathbhai Karsanbhai Parmar (the deceased) with the date given as 24.04.2009 is that appellant No. 3 had joined his office following the illness of the existing cleaner. She used to come to the office daily for cleaning purposes. Slowly they developed intimacy. It is alleged that appellant No. 3 had performed ‘black art’ on the deceased so much so that, he fell in love with her. Taking advantage of the situation, she took photographs and video of them in compromising position. All the accused persons blackmailing him, he initially paid Rs. 80,000.00 to them and thereafter started giving them ornaments. He also gave them his passbook and cheque books after signing on the cheques. Because of such blackmailing, he had to misappropriate money from his office for which he was suspended. It is stated that he was totally ruined and, therefore, he had committed suicide as he had no other alternative.

41. The suicide note was sent to the Forensic Science Laboratory (FSL) for examination. The Deputy Chief Handwriting Expert of FSL, Gandhinagar opined that the handwriting was of the deceased. However, the prosecution did not examine the Deputy Chief Handwriting Expert as an expert witness. The records also do

not indicate that the accused had admitted genuineness of the report of the handwriting expert.”

8. In my view the ratio laid down by the Supreme Court in above mentioned Judgment would be squarely applicable in the present proceeding.

9. 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, the Supreme Court in the judgment 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 that the applicant is a lady who is a home maker, her husband being arrested in the present crime and she being a mother of two sons according to me, the present anticipatory bail application of the present applicant needs to be allowed. Hence, the following order :-

ORDER

- (a) **The anticipatory bail application is allowed.**
- (b) In the event of arrest in connection with Crime No. 32/2025 registered with Chikhali Police Station, Pimpri Chinchwad, the applicant shall be released on bail, on furnishing P.R. bond to the extent of Rs.30,000/- 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 as and when called by the investigating officer.
- (d) 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 her from disclosing the facts to Court or any Police Officer and further, the applicant shall not tamper with the evidence in any manner whatsoever.

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

12. 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.

13. **The anticipatory bail application is disposed off.**

(RAJESH S. PATIL, J.)