

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

ANTICIPATORY BAIL APPLICATION NO. 1057 OF 2022

Ganpatrao Janardhan Patil

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr. Hrishikesh Mundargi a/w Ms. Pravada Raut, Advocates for the Applicant.

Ms M. R. Tidke, APP for the Respondent-State.

Mr. Ramesh Badi a/w Mr. Ajay Bhise, Advocate for the Intervener.

Mr. Sagar G. Patil, API, Shirolu MIDC Police Station, Kolhapur, present.

CORAM : VINAY JOSHI, J.

DATE : 25th APRIL, 2022.

P.C.:

. In anticipation of arrest in Crime No. 63 of 2022, registered with Shirolu MIDC Police Station, District Kolhapur, for the offences punishable under Sections 305, 504, 506 r/w 34 of the Indian Penal Code and Sections 75 and 87 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the applicant is praying for pre-arrest protection.

2. The bail is claimed on usual grounds. Besides that, it is contended that the allegations at its face value, nowhere discloses adequate *mens rea*. It is submitted that the applicant being a Chairman and disciplinary authority, his act of reprimanding student cannot be construed as sufficient

instigation to commit suicide. The State opposed bail by contending that the applicant's act of humiliating, abusing and continuous harassing student amounts to sufficient instigation. The deceased student committed suicide within few hours from the incident. The applicant has created the circumstance, which caused deceased to end his life. The investigation is in progress, therefore, bail is prayed to be rejected.

3. At the instance of report dated 02nd April, 2022, lodged by the Informant Ramchandra Budkar, the crime came to be registered. The Informant's grandson (deceased) was studying in 10th Standard at Symbolic International School. The applicant was a Chairman of the school whilst his wife was a Principal. On 01st April, 2022, the Informant received telephonic message calling him to attend the school. When he went to the school, he was asked to take his grandson (deceased) back to the house. On inquiry deceased boy disclosed that while he was playing football, inadvertently goal post guard hit a girl, causing her injury. He disclosed that the applicant had scolded and abused him in filthy language. Immediately the Informant met the applicant to inquire the matter. The applicant said that his grandson has caused injury to a girl. His grandson is ill-cultured, no chances of reformation and he is slum boy. He also stated that the school Principal had informed him that in past also deceased had behaved unruly. He was informed that deceased should be rusticated from the school. The applicant also uttered bad words to the deceased in presence of one school teacher. Thereafter, the Informant took his grandson to his house, who within few hours committed suicide by way of hanging.

4. The applicant's learned Counsel submitted that the applicant was a Chairman and disciplinary authority of the school. His disciplinary action would not suggest that he intended by such an act to instigate the deceased to commit suicide. He would submit that unless there is adequate *mens rea*, the act of abusing the student cannot be termed as sufficient "abetement" within the meaning of Section 107 of the Indian Penal Code. To substantiate said contention, he relied on the decisions in cases of **Geo Varghese V/s. State of Rajasthan & another¹**, **Dr. Mrs. Seema Ajay Bhoosreddy & another V/s. The State of Maharashtra²**, **Sanju Alias Sanjay Singh Sengar V/s. State of M. P.³**, **Madan Mohan Singh V/s. State of Gujarat and another⁴**, **Soumya Manoharan Manutuparambil V/s. The State of Maharashtra** in Bail Application No. 527 of 2015, decided on 23rd March 2015 and **Ms. Lovina Pankaj Bhatia V/s. Central Bureau of Investigation & another** in Criminal Revision Application No. 40 of 2011, decided on 12th August, 2011. Noted the principles laid down in above referred decisions. However, each case depends upon the facts and circumstances of the case.

5. It emerges from FIR that the concerned incident took place on 01st April, 2022 in the school. Particularly in presence of the Informant, the applicant had used bad words to a tender aged boy. Notably in the supplementary statement the informant stated humiliating words uttered by the applicant, which are as follows:

1 2021 SCC Online SC 873.

2 2011 ALLMR(Cri) 3326.

3 (2002) 5 SCC 371.

4 (2010) 8 SCC 628.

"आर्यन हा नालायक आहे, सुधारणार नाही, झोपडपट्टीछाप आहे, तुझ्यासारखा परवृत्तीच्या मुलांना जगण्याचा अधिकार नाही. जगावर तुम्ही भार आहात. या जगात राहण्याचा अधिकार नाही तुम्हाला. तू पृथ्वीवर भार आहेस, असे खूप वाईट शब्दात माझ्या नातवाबद्दल माझ्या समोर बोलले होते."

6. It is well settled that each case depends upon facts and circumstances of the case. Whether a person has abetted in the commission of suicide, could only be gathered from the facts of particular case. There can be indirect act of incitement for commission of suicide. On examining entire investigation paper it reveals that there are several complaints of the parents against the applicant about misbehavior with students. As regards to the case in hand, the utterances of the applicant are objectionable. No doubt, he can reprimand students, but not in such a language which would shatter the tender mind.

7. The learned APP would submit that there can be hardly direct evidence about abetment. In this regard my attention is invited to Paragraph No. 18 of the decision of Supreme Court in the case of **Praveen Pradhan V/s. State of Uttaranchal and Another⁵** which reads as below:

"18. In fact, from the above discussion it is apparent that instigation has to be gathered from the circumstances of a particular case. No straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide. Therefore, in such a case, an

⁵ (2012) 9 SCC 734.

inference has to be drawn from the circumstances and it is to be determined whether circumstances had been such which in fact had created the situation that a person felt totally frustrated and committed suicide. More so, while dealing with an application for quashing of the proceedings, a court cannot form a firm opinion, rather a tentative view that would evoke the presumption referred to under Section 228 Cr.P.C.”

8. As per the statements of witnesses, the applicant has scolded the deceased minor boy in unruly manner. He had also called his parents to the school. In presence of teacher and the Informant (grandfather) again scolded in unparliamentary words (quoted above). *Prima facie* it suggests that the applicant has created impression in the mind of student to put him in deep frustration. It requires to be noted that there is a direct link of the applicant's act since within few hours from the episode, the child has ended his life by suicide. Always the criteria for regular bail and pre-arrest bail differs from fact to fact. A young student has lost his life in proximity from the act of the applicant. Investigation is in progress. The applicant's custodial interrogation is necessary. No case is made out to grant pre-arrest protection, hence, the application stands rejected.

(VINAY JOSHI, J.)