

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 3236 of 2021

Rajesh Singh BhandariApplicant

Versus

State of UttarakhandRespondent

Present:-

Mr. Nandan Arya and Mr. Karan Singh Dugtal, Advocates for the applicant.

Mr. Amit Bhatt, Deputy Advocate General along with Mr. Lalit Miglani, A.G.A. with Mrs. Sonika Khulbe, Brief Holder for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant Rajesh Singh Bhandari is in judicial custody in FIR No. 01 of 2020, under Section 306 of IPC and Section 66/67 of the Information Technology Act, 2000, Revenue Police Station Ghandiyaldhar, District Tehri Garhwal. He has sought his release on bail.

2. The deceased was married with Deepak Singh Bhandari. On 22.05.2013, she was found dead. It was a case of hanging. The brother of the deceased lodged an FIR, suspecting the role of her husband Deepak Bhandari on the ground that her husband would not give time to the deceased, had neglected her.

3. During investigation, it was revealed that, in fact, it is the applicant, who was in contact with the deceased through some social media platforms. They had

exchanged photographs. The applicant had procured some obscene photographs of the deceased also. During the investigation, the Investigating Officer ("the IO") would collect the chat between the deceased and the applicant, which according to the IO, was in the nature of harassing the deceased, which made her to commit suicide. The mobile phone of the deceased and the applicant both were sent for forensic examination and it confirmed its authenticity.

4. Heard learned counsel for the parties and perused the record.

5. Learned counsel for the applicant would submit that the applicant is not named in the FIR; the brothers of the deceased, who have been examined at trial have not stated anything against the applicant; they have levelled allegations against the husband of the deceased that it is he, who had deserted, left and ignored the deceased, and, it is he, who would beat the deceased. It is argued that there is no evidence against the applicant and the applicant is in custody for last one year. This is not a case, which may attract the provisions of Section 306 of IPC because, by no means, the act could be attributed to the applicant that, it is he, who had abetted the suicide.

Learned counsel referred to the provisions of Section 107 of the Indian Penal Code, 1860, which *inter alia* defines three mode of abetment, namely, conspiracy, instigation and intentional aid.

6. In the instant case, the State along with counter affidavit has filed the WhatsApp chat between the deceased and the applicant. Along with supplementary counter affidavit, the State has particularly filed the chat between the deceased and the applicant of 08.06.2020.

7. It is argued that even if the chat is taken into consideration, it is two days' prior to the death of the deceased.

8. On the other hand, learned State Counsel would submit that the WhatsApp chat dated 08.06.2020, which has been filed by the State along with supplementary counter affidavit speaks in volume. Some of the chats have been read extensively, to argue that it reveals that the applicant, by forwarding obscene video of the deceased, compelled her to commit suicide.

9. The trial is underway. The informant, Prem Singh Pundir has been examined as PW1 and his brother, Dharam Singh has been examined as PW2. Much of the

discussion at this stage is to be avoided but to the extent of appreciating the arguments, the matter may be examined with a caveat that any observation made in this stage shall not have any effect in the trial.

10. The act of abetment can only be inferred by the attending action of the deceased. In fact, it is a kind of reading the mind of deceased, as to what transpired in her mind, when she ended her life. More so, it is an act of reading the mind of the deceased, as to who influenced her to commit suicide. In the case of Amit Kapoor Vs. Ramesh Chander & another, (2012) 9 SCC 460; has inter alia held that **“All cases may not be of direct evidence in regard to investigation having a direct nexus to the suicide. There could be cases where circumstances created by the accused are such that a person feels totally frustrated and finds it difficult to continue existence.”**

11. It is true that in the FIR, the brother of the deceased has raised doubts that perhaps it is the conduct of her husband, who might have compelled the deceased to end her life. The IO has a different story. He has collected the mobile phones of both the applicant & the deceased and confirmed their authenticity through

Forensic Science Laboratory Report. The conversation is annexure-1 to the supplementary counter affidavit, filed by the State. According to the State, it is dated 08.06.2020. A few portion of chat are here as under:-

“ Deceased- Jo bola sun lo.. Apki bhi sadi ho gai h and meri bhi to, ab I’m baton ka koi fayda nahi, to bhool jao sab

Or ab purani bato ka koi fayda nahi theek h

Khud bhi jio or mujhe bhi apne parivar k sath jeene do

Applicant-Bhot hasi aa rahi ha na bata koi bat apni nahi ak din tumha rulya nahi to kakhna ok aur apni ya faltu ki gyan apna pass rakho ok jab khud kya to tab kuch nahi ab mari bari aai to apna pariver dikhna lay gya ha kya bat ha

Tumha jo jo bhulna ha aram sa bhulo par log sab yad dila danga apko ok



Jish din ya sab tumhara apna dakhnga to bahot khush hoga tab tumhara parivar ha na tumna ak acha khasa insan rakshas bana dya ha ab jo hoga dakha jyaga enjoy the life

Deceased-Yar ye sab kyun rakhi h tume plz delete kar di ise

**Plz plz mai tumhara hath jodti hun
Mat karo aisa meri life kharab ho jayegi**

Kya chaiye tumhe

Mera pati bahut gusse wala h, vo muje chod dega plz

Fir kyun kar rahe hi mere sath

Applicant-Jo mari jindagi sa khal sakti ha wo kya pata kal ko kishi aur ki jindadi sa bhi khal sakti ha

Ab to ak hi tarka ha dono sath ma marta ha ok kyu ki na jina ka haq tumha ha na mujha ha

Ma ab kishi ko dhokha nahi dana chata aur na kishi ko dana dunga apna karmo ki saja hama yahi milti ha ok

Deceased-Plz plz plz

Jab se mere beti huvi h, vo ab acche se rahete h, aisa mat bolo... Sab barbad ho jayega

Applicant-Aisi kya galti kar di thi maina pyar hi to kya tha na bas

Plz maf kardo

Plz

Applicant-Nahi mujha tumhari awaj tak suna ka dil nahi ha ab kabhi

Deceased-Plz promise kar ye sab delete kar doge...

Ja hum kar rahe the vo galat tha...Us time to hame pata nahi chala, lekin ab samajh aa raha h, ki kisi ko dhoka nhai dena chahiye

Mai is duniya ki sabse gandi insan hun.. Or isi bat ki saza mujhe aj tak mil rahi thi. Ki mere pati muje time nahi dete the...But bhagwan ne ek mooka diya h... Plz mai apse hath jod k, bolti hu ki bhool jao sab

Jaise bat ap kar rahe ho to lagta h ki jahar hi khana padega ab... sayad yehi chaiye apko

Nahi, us time dimag kam nahi kar raha tha

Yar karan, kya bol rahe ho ye sab

Bhejna h unko to bhej do, aj in sab baton se chutkara mil ho jaye... Waise bhi jo apke sath kiya h or jo unke sath kiya h, uski to mujhe saza milne hi h ek din... Abhi vo ghar pe hi h bhej do, aj sab khatam kar dete h

Tumhara mera or mere or mere husband ki beech sab khatam kar dete h....8979287748."

12. A bare perusal of the chat reveals that, in fact, the victim was begging from the applicant to leave her, to end the relationship, to delete the obscene video, but, the applicant, it appears, was not willing to do so. It is definitely a position of making the existence of someone worthless. Hence it frustrated the deceased and put her

in a condition where she found it difficult to continue existence.

13. Having considered, this Court is of the view that it is not a case fit for bail and the bail application deserves to be rejected.

14. Accordingly, the bail application is rejected.

(Ravindra Maithani, J.)
01.09.2022

AK