

**Order below Exh.01 in Cri.B.A.No.1282/2022**

CNR No.MHNS010054162022

(Arun Suryabhan Kandekar vs. State)

The applicant has preferred this application for anticipatory bail praying therein that he may be released on bail in the event of arrest in connection with CR.No.I-163/2022 registered with Mhasrul police station initially for attempt to commit murder of Satish Deshmukh and after his death, for the offence punishable under Sec.307 r/w 34 of IPC, on the basis of FIR lodged by Parikshit Satish Deshmukh.

2. Bail application is filed on the ground that the applicant is innocent and has been falsely implicated in the case. That Avinash who was working in Parikshit hospital has stated to the complainant that he heard some quarrel between Satish Deshmukh, Suhasini Deshmukh and applicant. Pramod Gholap, who is driver of Satish Deshmukh was present in the cabin and Pramod took the applicant outside the hospital. Whatever incident took place was after the applicant left the hospital. He is not involved in the crime. That the applicant has lodged N.C. with Mhasrul police station bearing No.766/2022 on 10.9.2022 about quarrel taking place between Satish Deshmukh and Suhasini. That the history given in Sahyadri Superspeciality hospital, Nashik is that Satish Deshmukh attempted suicide with anaesthetic medication with Hypoxic ischemic encephalopathy. It is not case of attempt to murder, but it is a case of committing suicide. That the applicant is from reputed family. If arrested, will cause prejudice to his reputation. Nothing is to be

recovered or discovered at the instance of present applicant. He is permanent resident of Nashik and will co-operate investigation machinery. On these main grounds and others has prayed for bail.

3. Notice was issued to State. State appeared through Ld. APP Mr. Kapse and filed say resisting for grant of application on the grounds that the offence is serious one. Both the accused persons in furtherance of their common intention committed murder. That deceased sent message on family group stating that if he dies, Rinku and Kandekar who administered him injection, would be held responsible. That there was dispute between Satish Deshmukh and accused on the count of illicit relation between the accused person. The applicant has lodged N.C. against Satish Deshmukh. That Shreya daughter of Suhasini, forcibly took the mobile of Satish Deshmukh and has deleted important whatsapp conversation. That the applicant will abscond, if released on bail. That he will pressurize the witness. On these main grounds and others have prayed for rejection of the bail application.

4. Ld.Adv.Mr.Borade filed his Vakalatnama on behalf of informant. He filed his objections [Exh.10]. He reiterated contents of FIR. According to him, there is prima facie case against both accused person for having caused death of Satish Deshmukh. That there are oral dying declarations pointing out finger of involvement of both the accused persons in the crime. That father of the informant was in critical condition and therefore, delay of 32 days cannot be said to be fatal. Hence, he prayed for rejection of the bail application.

5. Heard Ld. Advocate Mr.Bhand for applicant. Perused bail application. Heard Ld. APP Mr.Kapse assisted by Ld.Adv. Mr.Borade. Perused police papers and say filed by Mhasrul police station.

6. Advocate Mr. Bhand reiterated all the grounds mentioned in the bail application, whereas Ld.APP Mr.Kapse reiterated the grounds mentioned in the say filed by Mhasrul police station as well as contentions in written objections placed on record by Ld.Adv.Mr.Borade.

7. The informant is son of Satish Deshmukh [deceased]. Suhasini is second wife of Satish Deshmukh. Arun Kandekar is husband of Suhasini's sister.

8. According to FIR, on 10.9.2022, the informant while proceeding to Mumbai, received whatsapp message on 'We are family group' that “मला रिकु आणि कांडेकरने इंजेक्शन दिले आहे, मला मारण्यासाठी. मी मेलो तर ते जबाबदार आहेत” Accordingly, the informant contacted his father who informed him that Rinku and Kandekar has given him injection. His father was not able to speak properly. Therefore, informant contacted the staff who shifted his father to Suyog hospital. During spot panchanama dated 11.9.2022 carried out in inquiry, Profol injection, Vecuronium bromide injection, Sodium chloride injection, Syringe, Two syringe without needle and Two plastic cover cap were found, seized and sealed. On 24.9.2022, FIR alleging attempt to murder was lodged. Dr.Deshmukh died on

13.10.2012 and offence under Sec.302 of IPC was added.

9. If the contents of FIR is to be believed, then there are two dying declarations, one in writing in form of whatsapp message and another is in form of conversation between Dr. Satish Deshmukh and informant revealing the administration of injection by both the accused persons. The investigation papers will reveal collection of whatsapp message dated 10<sup>th</sup> September 2022 at 2.59 p.m. stating “मला रिकु आणि कांडेकरने इंजेक्शन दिले आहे, मला मारण्यासाठी. मी मेलो तर ते जबाबदार आहेत”

10. Ld.Adv.Mr.Bhand had argued vehemently that this is case of suicide and not attempt to murder or murder.

11. If the FIR is to be considered, then definitely, Satish Deshmukh [deceased] had informed his son about criminal overt act of both accused persons, amounting to attempt to murder.

12. On perusal of admission papers with Suyog hospital, the same is dated 10.9.2022 and timing is mentioned as 15:46:19. It mentions self injected drug over dose. So also, is the case with admission papers of Sahyadri hospital, which mentions about attempt of suicide by Dr.Satish Deshmukh.

13. However, the message given to the son by the father on 10.9.2022 at 2.59 p.m., stating criminal overt act is first in time. The another factor to be considered is that there is material on record to show that before administration of injection, there was

quarrel between Dr.Satish Deshmukh on one hand and Suhasini, Kandekar on the other. Satish Deshmukh assaulted Kandekar for which he lodged N.C. against Dr.Deshmukh.

14. It also needs to be appreciated that staff of Parikshit hospital had admitted Dr.Satish Deshmukh in the hospital who at that point of time was not in a position to talk. The staff of Parikshit hospital was more concerned with availing of medical treatment for Dr.Deshmukh. Therefore, at the time of admission, the staff may have disclosed the reason of attempt to suicide.

15. The conduct of both the accused will show that after Dr.Deshmukh was admitted in hospital, both accused persons did not personally come to visit him, in stead, sent Shreya, daughter of Suhasini, who forcibly took the mobile of Dr.Deshmukh and erased some messages, from his mobile.

16. The offence of murder is serious one. The name of the present applicant as well as criminal overt act is mentioned in FIR. The offence of murder is punishable with imprisonment for Life or death. Custodial interrogation is necessary. It is specifically mentioned in FIR that after marriage between Dr.Deshmukh and Suhasini, she took all the reins of the hospital in her hand. There are allegations that Suhasini and Kandekar are having illicit relations. Definitely, if the applicant released on anticipatory bail, witnesses will be pressurized.

17. As far as contentions of Ld.Advocate that this is case

under Sec.306 of IPC is concerned, as discussed here in above, at the first point of time, criminal overt act of both the applicant is mentioned in whatsapp message. Even otherwise, this being stage of anticipatory bail, one cannot come to the conclusion that this is a case under Sec.306 of IPC, moreso when, the deceased had revealed the circumstances of his death to his son, pointing out the finger of guilt against both the accused persons.

18. Hence, it will not be appropriate to exercise discretion in favour of the applicant in form of anticipatory bail. Hence, following order is passed :

**ORDER**

(1). Application is rejected.

Nashik.

( V. P. Desai)

Date : 08.11.2022

Additional Sessions Judge,  
Nashik.