

MHKO010007182023



ORDER BELOW EXH.17 IN SESSIONS CASE NO. 70/2023

(State of Maharashtra Vs. Shubham Shivaji Veer)

1] Perused application and say filed by I.O. and APP Heard Advocate of accused and APP for the State. Notice issued to first informant and perused his reply, heard him.

2] Application is filed under section 227 of Code of Criminal Procedure (Hereinafter referred as 'Cr.PC.') (u/s.250 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred as 'BNSS')) by accused for his discharge from offence p/u/s. 306 of the Indian Penal Code (hereinafter referred as 'IPC'). According to accused, allegations in FIR are cryptic, vague. There is delay of 32 days in lodging FIR. Ingredients of Section 306 of IPC are not attracted. In entire charge-sheet there is no evidence to show that accused and deceased were having love relationship since 2 years. There was no instigation, incitement by accused to deceased to commit suicide. Intention of accused cannot be gathered on the basis of material in charge-sheet. Charges are groundless and he prayed to discharge him from the offence levelled against him.

3] APP, IO and first informant objected this application by filing say on the grounds that accused and deceased were in love affair with each other, accused promised to marry with deceased but his family members objected their marriage. Then accused also denied to marry with deceased. Being instigated by this fact deceased consumed poison and ended her life. In charge-sheet there are statements of deceased, other relatives who stated that accused is responsible for death of deceased. First informant is father of deceased and he talked with accused but he told deceased that he is not ready to marry with her. So there is intention, accused cheated deceased and she committed suicide. There is material in charge-sheet to frame charge and

they prayed to reject application.

4] As per FIR filed by father of deceased, deceased was 19 years and studying in First year of B.A.. There was love affair between her and accused and she told them about the same, fact that accused promised to marry with her. However on 24/3/2022 accused made phone call to deceased and told that his family members were not ready for said marriage so he could not marry with her. On same day at night deceased consumed poisonous medicine viz. Gramoxone and while taking treatment in CPR Hospital, she died on 26/3/2022. Therefore it is alleged that accused instigated deceased, abetted her to commit suicide. Advocate of accused submitted that these allegations are not sufficient to frame charge. Refusal to marry by accused cannot be the ground of abetment. There is delay in lodging report. There was no intention, mens rea of cheating and abetting. So there is no material to frame charge.

5] Advocate of accused relied on authority cited in **Devesh Dattabhau Pathrikar and Ors. Vs. State of Maharashtra reported in 2010 Cri. L.J. 3560** in which offence p/u/s. 306 r/w. 34 of IPC were levelled. Facts and material on record showing that accused and deceased earlier had love affair. Subsequently deceased in clear terms severed her relationship with him. So far as accused No.1 is concerned it is observed by Hon'ble Bombay High Court that accused having in possession photographs of deceased. He was persistently pushing his proposal to get married to deceased. So material on record thus prima facie establishing that accused had intention and mens rea for committing offence. Provisions of Section 107 and 306 of IPC are discussed. So far as other accused No.2 and 3 are concerned, it is observed that parents of lover merely making an attempt to push a marriage proposal of their son to her parents and it is not a criminal activity. There is nothing on record to show that they pressurized her for agreeing to marry their son. Even suicide note did not blame them so they are entitled to be discharged.

6] Ratio laid down in above cited ruling is noted and considered.

In this matter after appearance of accused, it was kept for framing charge. Meanwhile NBW was issued to accused, after his presence on 15/10/2025 charge was framed against accused. He pleaded not guilty and thereafter matter is kept for evidence. This application is filed on 16/12/2025 i.e. after framing of charge. Advocate of accused submitted that as per provisions of BNSS application for discharge is filed within time. It is necessary to note that as per Section 250 (1) of BNSS accused may prefer an application for discharge within period of 60 days from the date of commitment of case. In this matter order of committal is dt. 7/2/2023. Therefore application is not within time. APP for State submitted that there is material in charge-sheet against accused. This application is filed after framing of charge and there cannot be discharge of accused after framing of charge.

7] In that context it is necessary to rely on authority cited in **Ratilal Bhanji Mithani v. State of Maharashtra (1979)** in which the Hon'ble Apex Court explicitly held that once a charge is framed, the Magistrate or Sessions Court has no power to cancel the charge, revert the proceedings, and discharge the accused. Ratio laid down in above cited ruling is noted and applicable. In view of legal provisions at this stage grounds raised in application are not sufficient to discharge accused. In charge-sheet there are statements of first informant, witnesses who stated about relationship between deceased and accused and fact that family members of accused refused to said relationship, accused deceived deceased, abetted her to commit suicide etc. Prior to death, statement of deceased was also recorded who stated reason of her death. In such circumstances after going through material in charge-sheet, charge was framed. Therefore at this stage application for discharge is not tenable and it deserves to be rejected with following order.

ORDER

Application is rejected.

(Smt. R.V. Adone)

Date : 02.07.2026

Additional Sessions Judge, Kolhapur.

Certificate

“ I affirm that the contents of the P.D.F. File order are same word for word as per original order.

Sd/-

[A. A. Patil]
(Stenographer G-1)