

MHOS010010842025 	<u>SESSIONS CASE No. 44/2025</u> <u>State of Maharashtra</u> <u>Vs</u> <u>Feroz Babu Shaikh & Anr.</u>
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ORDER PASSED BELOW EXH.20

(Passed on 10.06.2026)

1] This is an application moved under Section 250 of the Bhartiya Nagarik Suraksha Sanhita 2023 (for short “B.N.S.S.”) seeking discharge of applicant Arun Ramrao More who is an accused No.2 in Crime No. 337 of 2024 registered with Rural Police Station, Dharashiv for the offences punishable under sections 108, 351(1), 3(5) of Bharatiya Nyaya Sanhita 2023 (for short “BNS”) and U/sec 66(E), 67 of the Information Technology Act (for short “IT Act”)

2] The seminal facts relevant for the purpose of deciding the present application are that ;

A complaint came to be registered with Rural Police Station, Dharashiv on 16.12.2024 by Suraj Soudagar Mohite alleging that, on 19.11.2024, the sister in law of the applicant’s wife aged 33 years committed suicide by hanging, it is alleged that the applicant harassed the victim and abated her suicide. It is alleged that, the applicant and his wife are matrimonial dispute and custody of applicant children is with the applicant’s wife. It is also alleged that sister in law of the applicant’s wife was in illicit relations with accused No. 1 Feroz. The applicant has procured photographs and video of the illicit relations between the accused No.1 and deceased and applicant has forwarded said photographs and video to his

brother in law (i.e., husband of the deceased). Thereafter, there was long conversation between the applicant / accused No. 2 and his brother in law (i.e., husband of the deceased) and that based on the above photographs and videos, the applicant was seeking custody of his children. He was persuading the husband of the deceased that there is some wrong with the family and that his children being brought on in such family and sought help to seek custody of his children. It is stated that, the applicant has forwarded photographs and videos to the brother in law so also other relatives. Thereafter, the husband of the deceased had long heated conversation with deceased on video conferring and they have also added the d father of the deceased in the said conversation. In the said conversation, which lasted for about 4 hours there was heated discussion herein. The deceased is said to have stated that the accused No. 1 Feroz initially having relations with her but later on by misusing the photographs and videos incus her to have repeated sexual intercourse with him.

3] The applicant and accused No. 1 are coming from the same village and the applicant had obtained the videos and photographs from accused No. 1 and thereafter misutilized the said photographs and videos. As such, the victim was alleging harass and committed suicide. FIR was registered and there was applicant was arrested and charge-sheeted.

4] According to the applicant, the allegations made against him are false and baseless, he has not committed any offence as alleged, there is no direct or indirect evidence to connect him to alleged

offence. The illicit relationship between deceased and co-accused Feroz where known to family members of the deceased. On 15.11.2024 the deceased committed suicide, yet the FIR belatedly lodged after 4 days on 19.11.2024. Pertaining the unnatural death and absolutely there were no any allegations against any person whatsoever, in between 15.4.2024 to 19.4.2024 (i.e., from the date of the incident still lodging of the FIR).

5] According to the applicant, it shall be appreciated that even after taking the prosecution case as it is on the face of it, few hours prior to the alleged incident there was long conversation between the deceased and her husband over phone call where he had confronted the deceased in the presence of her father about her illicit relations with the co-accused Feroz and that itself of the sole reason for the deceased to commit suicide. The statement of witnesses Santosh also reflect that the informant Suraj tortured his wife and insisted her father to lodged false report against the present applicant.

6] The applicant claims that, he is innocent and has been false implemented in the present case. He will suffer lot of hardship in case he is tried by framing of charge. There is no sufficient material to attract the ingredient of Sec. 108 of BNS (306 of IPC) as mere allegations of harassment without evidence without intended to instigate suicide does not fulfill the requirement of Sec. 306 of IPC. The abatement involves a mental process requiring intention.

7] The applicant contends that, he is young person of 42 years and is a reputed a medical practitioner having a strong roots in the society. He is the only earning member of his family and has no

criminal antecedents. He will suffer grave hardship if trial is held. In the absence of sufficient material to proceed further with framing of charge. The accused has to be discharged since even the basic ingredient of penal sections are applied are not made out prima-facie.

8] The Prosecution has strongly opposed the application seeking discharge by filing say at Exh.39. It is contented that, both applicant and co-accused Feroz Shaikh are friends and hailing from the same village Murud. Co-accused Feroz is doing the work of Fabrication and while doing the said work he has developed illicit relations with the deceased, as the husband of the deceased i.e., informant was residing abroad in Uganda for job. Feroz has taken nude photos of the deceased and under the threat of making them viral on social media compelled the deceased to maintain the physical relations with him. Feroz has sent those photos of his physical relations with the deceased to the applicant on whats app and the applicant has forwarded those photos of Feroz and deceased to the husband of the deceased i.e., informant. The applicant and co-accused extorted money and gold ornaments from the deceased under the threat under making those photographs viral on social media. The applicant by sending those obscene video and images, photographs of physical relation with deceased and co-accused Feroz to the husband of the deceased and relative of deceased abated for her suicide. The applicant has abated the deceased in commission of suicide nay instigated her. The investigation reveals that the applicant and co-accused were in contact before and after incident and in that regard the CDR/SDR are filed along with the charge-sheet. Specific role has been attributed to the applicant in the present crime there is

sufficient material to show prima-facie involvement of the accused in the alleged offence and to proceed with the trial by framing charge against this accused/applicant. It is thus submitted that the application seeking discharge moved at Exh.20 be rejected.

9] Heard Mr. P.P. Kasture, the learned advocate appearing on behalf of the applicant/accused No.2 and Mr. M.B. Deshmukh, the learned P.P for the State assisted by Miss. R.R. Kolge Advocate.

10] Mr. P.P. Kasture, the learned advocate for the applicant / accused canvassed in the light of the contentions in the application seeking discharge and harp on the fact that applicant has no concern with the co-accused there was no reason to instigate the deceased to commit suicide, the illicit relationship between the deceased and co-accused Feroz were known to all the family members of the deceased initially no complaint was filed and after four days a concocted complaint is filed by the informant against the present applicant. Initially he insisted the father of the deceased to lodge the report against the applicant. There is no material to proceed with the case by framing charge and if the charge is framed and trial proceeded the applicant will put to grave hardship and will have to face the charge without there being any material to substantiate the same.

11] In support of his submissions, he has placed his reliance on the following judgment of the Hon'ble Supreme Court.

S.S. Chheena V/s. Vijaykumar Mahajan and another (2010) 12 SCC 190, wherein Hon'ble Supreme Court has observed that, the abatement involves mental process instigating a person or

intentionally aiding a person in doing of a thing. Without a positive act on a part of accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and ratio of the cases decided by this Court is clear that in order to convict a person under section 306 of the I.P. Code there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he/she commit suicide.

12] The learned P.P Mr. M.B. Deshmukh with equal vehemence canvassed that the applicant is being prosecuted with the aid of Sec. 3(5) of the BNSS which establishes a principle of “Joint criminal liability” or common intention. Without trial the role of each accused cannot be segregated. The applicant and the co-accused are coming from the same village i.e., Murud they were and are friends knowing each other there are allegation that the applicant and co-accused extorted money and gold ornaments by the deceased by threatening her of making viral her photographs in physical relation with accused No. 1 on social media and to the relatives of the deceased. The applicant has sent those obscene video, images, and photographs to the husband of the deceased under the pretext of alerting him which led to hard discussion between deceased and her husband and resultantly the deceased has taken the extreme steps of committing suicide and putting an end to her life. Therefore, without trail and evidence the applicant cannot be discharged or exonerated.

13] After giving throughout consideration to the submission

canvassed from both the sides what appears to my mind is that the present applicant is the person who was in cross terms with his wife who is sister in law of deceased. Further, the deceased had some relation with co-accused may be extra marital or illicit this information is revealed by the applicant to her husband for getting his help so as to get custody of his children as they were growing in an inappropriate environment according to him.

14] At this stage, it is difficult to conclude that the suicide of deceased is the unintended consequence of alert to the husband of the deceased by sending the what apps messages and photographs by the applicant, because applicant is the person who did backbiting under the pretext of alerting the husband of the deceased, ear poisoned him about her wife without ascertaining the truth and genuineness in the photographs and images that he forwarded to him. Needless to say that, no one else except the applicant is the person who has forwarded those whats app messages, photographs, images and in return ask for favour of his brother in law i.e., husband of the deceased, now the informant. The heated argument between the informant and his wife (deceased) led the deceased to commit suicide. May be she was apprehending that her relations her marital tie with the informant will break, she will be defamed in the society bringing disgrace to her and the source of spreading this venom is none but the applicant, who did it for his personal gains i.e., for seeking custody of his children, more specifically for getting favour of the informant in the said matter.

15] As is rightly pointed by the prosecution many things will

come to the fore on evidence and the involvement of the applicant can very well be ascertained on evidence only, which is yet to be led. Prima facie ample what apps messages, CDR /SDR are on record showing the accused applicant in conversation, sharing what apps messages, chatting with the husband of the deceased, which are prima facie sufficient to establish his nexus with the accusations.

16] The Hon'ble Supreme Court in several judicial pronouncements reiterates that at the stage of discharge, a strong suspicion suffices to proceed with the trial. However, such suspicion must be founded on the material evidence that can be translated into the evidence at the trial stage. To be simple enough the Court must assess whether there is sufficient ground for proceeding against the accused and if the material on record does not disclose a prima-facie case or strong suspicion the accused can be discharged.

17] Here, it is not the stage to meticulously scan, assess and appreciate the entire evidence, however, a prima-facie consideration more specifically whether the material on record is sufficient to proceed against the accused for framing of the charge has to be seen if that gone un rebutted would warrant conviction of the accused, to my mind, there is ample material. The other statements of the witnesses recorded during the course of investigation the involvement of the applicant is evident and thus this is not a fit case for discharge.

18] The charge-sheet is filed on 24.04.2025 and the case is committed to his court on 05.05.2025 and the present application seeking discharge is filed on 20.11.2025. Since, the application

seeking discharge is filed after period of 60 days from the date of filing of the charge-sheet/commitment as is mandated under section 250 of B.N.S.S. it is canvassed that when the legislature has used the word 'shall' the same is mandatory and when the word 'may' is used the same is discretionary and in section 250(1) of B.N.S.S, the legislature used the word 'may' which gives discretion to the Court to relax the time limit and therefore, no proviso to relax the time limit was engrafted by the legislature. Therefore, even after expiry of sixty days, a petition for discharge can be considered by the Court since the time limit is not mandatory and it is only discretionary as was held by the Kerala High Court in the case of Sajith V/s. State of Kerala – 2024:KER:67663, dated 3 Sept 2024. Thus, it cannot be said that the application seeking discharge worth no consideration being barred by law being beyond the period of 60 days prescribed however on merit and substance it fails. Hence, following order is passed.

ORDER

Application seeking discharge moved by the accused No.2 Arun Ramrao More at Exh.20 in Sessions Case No.44/2025 is hereby rejected.

Date : 10.06.2026.

(Dr. F. A. M. Khwaja)
Additional Sessions Judge,
Osmanabad.

C E R T I F I C A T E

I affirm that the contents of this PDF file Order/Judgment are same word to word as per the original Order/Judgment.

Name of Stenographer	V.M. Gaikwad, Stenographer Gr. III (On Deputation)
Name of Court	Additional Session Judge Osmanabad
Date of order/Judgment	10.06.2026.
Date of order/judgment signed by presiding officer.	10.06.2026.
Judgment/Order uploaded on	10.06.2026.