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**IN THE COURT OF SESSIONS, AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
DISCHARGE APPLICATION (EXHIBIT-5)**

**IN
POCSO SPECIAL CASE NO.315 OF 2016**

Rahul Raj Harshvardhan Singh

....Applicant/accused

V/s.

**The State of Maharashtra
(Through Bangur Nagar, Malad (W)
Police Station)**

.....Respondents

Advocate Mr. Mithare for Applicant/original accused.
Spl. APP Mr. A. A. Deotarse for State.
Original complainant is present.

**CORAM: H.H.THE ADDITIONAL SESSIONS JUDGE,
Ms. S. J. ANSARI, (C.R.NO.11)
DATED : 14th August, 2023**

O R D E R

The present application seeking discharge has been filed by the accused under section 227 of the Code of Criminal Procedure. As per the accused, he is an actor by profession and belongs to a reputed family in Ranchi. The deceased one Pratyusha Banerjee, was also an actress and the informant in question is the deceased's mother-one Soma Banerjee. As per the accused, he had met Pratyusha for the first

time in the year 2013 at a birthday party after which they had again met on 21/06/15 at his house party at Andheri. After June 2015, the accused and the deceased became good friends and then started seeing each other. They even started living together within 2-3 months of their relationship.

2. On 01/04/16 at about 4.00 p.m. Pratyusha committed suicide by hanging at her residence in Goregaon (W), Mumbai. Subsequently, her mother filed a report against the accused on 05/04/16 alleging the fact of Pratyusha having committed suicide due to the torture of the accused. Thereafter, as per the accused, a few publicity hungry friends of Pratyusha publicised the entire incident to gain publicity for themselves by calling press conferences, etc. Ultimately, the accused was released on anticipatory bail by the Hon'ble High Court in terms of it's order dated 02/07/16. The charge-sheet then came to be filed against the accused after which it was committed to the Court of Sessions.

3. As per the accused, however, he has been falsely implicated in the present case on account of personal vendetta with an ulterior motive to tarnish his image. This is because, as per the accused, he and Pratyusha were deeply in love with each other and were supposed to get married in the month of December 2016. On the other hand, as per the accused, Pratyusha was deeply disturbed and frustrated due to the constant interference of her parents in her life. As regards the allegations pertaining to the accused using the debit card of the deceased and misusing her money, it has been contended that it was the mother of the deceased who was holding 3-4 joint bank accounts with her daughter which enabled her to withdraw her daughter's hard

earned money at any time. Stating that the parents of the deceased were in the habit of blowing her money and living a lavish life which he had tried to stop after coming into Pratyusha's life, the same had, as per the accused, angered her parents due to which they had started portraying him in a bad light. The telephonic conversation as recorded by the investigating agency which took place between the deceased and the accused according to him, will show that the deceased had abused her parents for calling her characterless. Stating that it was the deceased's mother who had obtained huge loans in the name of her daughter for which the statements of one Kunal Mithani and Manish Shah would be sufficient proof, the repayment of which loans had been defaulted upon, the same will as per the accused, show that he did not have anything to do with the financial transactions of the deceased.

4. As regards the allegations made by the deceased's uncle, aunt and father regarding the accused having assaulted the deceased, it has been contended that their statements can only be said to be that of hearsay witnesses as they had not seen any such incident. Further, as per the accused, the allegations made by the witnesses about he and the deceased fighting on account of the accused suspecting the deceased's character and torturing her will not fulfill the ingredients required to establish even a prima facie case u/s.306 of the IPC.

5. Not only this, but as per the accused, the deceased was a grown up, mature and independent girl who could take her own decisions. She was also living with the accused willingly and as they had not married, she could have easily walked out of his life if she would have desired to do so. The fact that she chose to remain with the accused according to him, will show that they were living a happy life together.

6. As regards the allegations about the parents having left Mumbai on account of the bad behaviour of the accused, it has been contended that if the deceased would have actually been tortured by him, her parents should have taken their daughter with them to prevent the said torture. However, they did not do so which as per the accused, creates a doubt about the allegations subsequently being made by them.

7. It has then been pointed out that in the last conversation as recorded between him and the deceased, he was trying his best to console her and was repeatedly telling her that he loves her. The said conversation, will as per the accused, show that the deceased was unhappy with her parents as she was using obscene language against them. No element of any abetment of the deceased to commit suicide was as per the accused, found in the entire conversation. Not only this, but as per the accused, the deceased at the relevant time was so drunk that she was not in a mood to understand anything and had gone to the extent to doubt as to whether she and her parents had the same blood. Hence, reiterating the fact of the parents of the deceased being the cause of her depression as she was debt ridden due to them and did not have any work and had become penniless, the same according to him, resulted in she becoming addicted to drugs and alcohol.

8. As regards the statements of one Raj Baria, the accused has sought to create a doubt about the same by pointing out that there was no reason for the deceased to choose her ex-driver to narrate her pain and trauma. With regard to the statement of one Dolly Das, it has again been stated that she is a hearsay witness and there is every possibility of she having made her statement on the instructions of the mother of the deceased. The statements of Aakash Patidar, Kamyia Punjabi, Manav

Bhinder, have then been sought to be doubted by pointing out that the same contradicted the statement of the mother of the deceased and her other family members. This is because, as per the accused, while the friends have stated that the deceased was depressed because of the accused's affair with one Saloni Sharma due to which she may have committed suicide, the mother of the deceased has said that the accused used to suspect her daughter's character and torture her. However, pointing out that the friends of the deceased have made statements only to gain publicity and were never in regular touch with the said deceased while he had always financially and professionally supported her by giving her his entire earnings of the show "Power Couple" and that the observations of the Hon'ble High Court in its order granting anticipatory bail will show that he is completely innocent and has a good case on merits, the accused is seeking his discharge from the matter.

9. The investigating officer filed his say (Exh.8). Initially, in the course of the same, all the facts pertaining to the circumstances in which the FIR came to be registered and which came to be revealed during the investigation of the crime were related. Thereafter, the application for discharge came to be strongly opposed by pointing out that the conduct of the accused in vanishing from the Kokilaben Hospital after admitting the deceased in the same, clearly pointed towards his involvement in the crime. It has also been contended by the investigating officer that the statements of the various witnesses as available in the charge-sheet clearly show that the accused had physically and mentally harassed the deceased due to which she had committed suicide. Further, pointing out that there is proof to show that the accused had abetted the suicide of the deceased, the investigating officer has sought the rejection of the application.

10. The learned APP filed his say (Exh.16) in terms of which it has been pointed out that the statements in the charge-sheet will prima facie show that the deceased and the accused were in a live-in relationship in the course of which the accused had subjected her to cruelty and harassment, thereby abetting her suicide. Stating that the statements of the aunt and uncle of the deceased clearly indicate the fact of the accused having abused and assaulted the deceased on 31/03/16, which finds corroboration from the injuries mentioned in Column No.17 of the postmortem report wherein the injuries to the lips and nose have been noted, it has been contended that the torture of the accused had compelled the deceased to take the step of suicide. Further, stating that the statements as recorded by the police will prima facie show that the accused was not even giving the deceased her own money for her daily needs as her debit and credit cards were kept by him in his custody, and that he had always suspected her character which had resulted in the deceased suffering from depression for which she had also made an appointment with a counsellor one Vinesh Jayraj on 31/03/16, the material as per the learned APP, is sufficient to establish a prima facie case of abetment of suicide against the accused. The learned APP has therefore, sought the rejection of the application.

11. The informant has also submitted her written contentions (Exh.19) and and (Exh.20) along with various documents, all of which according to her, will show that the accused is a cheater who had abetted her daughter's suicide.

12. I have heard the Advocate for the accused Mr. Mithare and Shri Deotarse the learned APP for the State.

13. In the course of his arguments, Shri Deotarse the learned APP has placed reliance on the ruling in the case of **State of Bihar V. Ramesh Singh (AIR 1977 SUPREME COURT 2018)**, for pointing out the relevant factors and the duty of the Court while considering an application for discharge or while framing the charge. A perusal of the said judgment will show that therein, the Hon'ble Supreme Court has held that at the initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. Strong suspicion against the accused at the initial stage which leads the Court to think that there is ground for presuming that the accused has committed an offence will be enough to show that it would not be open to the Court to say that there is nothing to proceed against the accused. It is only if the evidence which the prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination cannot show that the accused committed the said offences, that it could be said that there was no sufficient ground to proceed with the matter.

14. Keeping the aforesaid principle in mind, I would first like to mention the various judgments relied upon by both the parties before me to support their respective contentions. In support of his arguments, the Advocate for the accused Shri Mithare has relied upon the following judgments :-

- 1) **Mr. Mohan V. the State Represented by the Deputy Superintendent of Police Cri. Appeal No.611/2011.**
- 2) **Madan Mohan Singh V. State of Gujrat and Anr. (2010) 8 SCC 628.**

3) S. S. Cheena V. Vijay Kumar Mahajan and Anr. 2010 (4) Crimes 101 (SC).

4) Netai Dutta V. State of W. B. (2005) 2 SCC 659.

5) Sanju @ Sanjay Singh Sengar V. State of M.P. (2002) 5 SCC 371.

6) Dr. Mrs. Seema Ajay Bhoosereddy V. The State of Maharashtra (Cri. Rev. App. No.265/2011).

7) Neelam Sharma V. State of Punjab and Anr. (Cri. Rev. App. No.950/2010).

8) Alka Gerwal V. State of M.P. (2000 CRI.L.J. 672).

9) Gurcharan Singh V. State of Punjab S.L.P. (Criminal) No.8764/2016.

10) Sharad Darade and Ors. V. State of Maharashtra (Writ petition No.1806/2021).

11) Geo Varghese V. State of Rajasthan and Anr. (2021 SCC OnLine SC 873).

12) State of Kerala and Ors. V. Unnikrishnan Nair and Ors. (2015) 9 Supreme Court Cases 639.

15. On the other hand, Shri Deotarse the learned APP has relied upon

1) State of Bihar V. Ramesh Singh (AIR 1977 Supreme Court 2018).

2) Chitresh Kumar Chopra V. State (Govt. of NCT of Delhi) AIR 2010 Supreme Court 1446.

3) Praveen Pradhan V. State of Uttaranchal and Anr. (2012 AIR SCW 5372).

16. A perusal of the aforesaid judgments, will show that as considered by the various courts, though the IPC does not define the term "suicide", its ordinary dictionary meaning has been taken to be "self-killing". Thus, in other words, suicide is an act of death which is

committed by the deceased himself. Section 306 of the IPC makes the abetment of suicide a criminal offence. It will have to be kept in mind that the term abetment is defined u/s.107 of the IPC as :

Section 107 says that a person abets the doing of a thing, who instigates any person to do that thing or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy or the person should have intentionally aided any act or illegal omission.

17. As interpreted by the Hon'ble Supreme Court in its various judgments, the term "instigate" means to goad, urge forward, provoke, incite or encourage to do an act. It has also been laid down that

"abetment involves a mental process of instigating a person or intentionally aiding that person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under section 306 IPC 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 committed suicide."

18. Further, the Hon'ble Courts have also held that,
“In cases of alleged abetment of suicide, there must be proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.”

To constitute an alleged abetment of suicide under Section 306 IPC, there must be an allegation of either direct or indirect acts of incitement to the commission of offence of suicide and mere allegations of harassment of the deceased by another person would not be sufficient in itself, unless there are allegations of such actions on the part of the accused which compelled the commission of suicide.

19. The material as collected in the chargesheet will now have to be considered by keeping in mind the aforesaid aspects. A perusal of the chargesheet will show that the FIR in question had come to be lodged by the mother of the deceased. Therein, it had been stated that her daughter had become acquainted with the accused in June 2015. The initial friendship then changed into a relationship as the accused proposed to the deceased, which proposal was accepted by her. Thereafter, from October 2015 the accused started living with the deceased and her mother in their rented home. The accused then as per the informant, started suspecting the character of the deceased on account of her previous relationship with another man and her friendship with other men. Not only this, but he used to even abuse and assault her. Huge fights used to take place between them in the night due to which the deceased sometimes used to come out running out of the bedroom in fear. In October 2015, the accused and the victim as per the informant, had gone to Kolkata and other places where also he had abused and assaulted the deceased on account of her previous relationship with another man.

20. Going further, the victim's mother in her FIR went on to state that she and the deceased were joint account holders in one account in the ICICI Bank and two accounts in the HDFC Bank. However, the accused had made them cancel their numbers as the registered members of the said account and had started using the debit card of the deceased for withdrawing money. He also used to tell the deceased not to speak to her parents as they were not earning and were living off her. He further told the informant that she was doing black magic to prevent his marriage with the deceased. Therefore, as the accused was harassing the deceased on account of her mother living with her, the parents of

the deceased as per the informant, returned to Jamshedpur on 12/01/16. However, in the absence of the accused, the deceased as per the informant, used to speak to her on the mobile of her servant one Renu Singh and used to tell her mother about the accused abusing and assaulting her. In the end of January 2016, the deceased as per the informant, had gone to visit her uncle Dipankar Banerjee at Ambarnath. She had then told her uncle and his wife Barnali about the accused abusing and assaulting her due to her previous relations and friendship with male friends as also about he having threatened to destroy her family if she would say anything to them. This had resulted in Dipankar Banerjee telephoning the deceased's mother and asking her to take back the deceased to their home as she did not want to live with the accused. Further, once or twice in the month of February and March 2016, the deceased again went to Dipankar Banerjee's house and told him about the accused always abusing and beating her under the influence of alcohol. In the afternoon on 31/03/16 the deceased as per the informant, had telephoned Barnali and told her that the harassment by the accused had become unbearable and that she was tired of living and did not have the desire to do so. Similar statements have been given by the deceased's father Shankar Banerjee, her uncle Dipankar Banerjee and his wife Barnali Banerjee.

21. The statements of the various other witnesses including the employees of the deceased, her friends, etc. also have a similar strain. This can be seen from the fact that one Raj Baria-who was for a certain time employed by the deceased as her driver, stated that as the mother of the deceased had asked him to keep an eye upon her daughter, he had gone to meet her in the second week of February 2016. At that time, the deceased as per this witness, was alone and had started crying

on seeing him. On the witness inquiring with her, the deceased told him that the accused used to suspect her character, abuse and assault her under the influence of liquor and that he also used to demand money from her. Similar complaints as per this witness, had been made by this deceased to him when he had gone to meet her in the middle of month of March.

22. Dolly Das-a fashion stylist of the deceased and her friend has in her statement, also clearly stated that the deceased had told her that the accused used to suspect her character, beat her and continuously harassed her physically and mentally due to her previous relationship and male friends, on account of which her life had become insufferable. She further stated that the debit card of the deceased always used to be with the accused.

23. A perusal of the statement of Aakash Patidar-another friend of the deceased will show that after a party in October 2015, when all of them along with the deceased and the accused had gone to the house of the said accused, a fight had taken place between the deceased and the accused after which they had gone in the bedroom from where the sound of someone being assaulted could be heard. Thereafter, as per the witness, the deceased came out crying, keeping a hand on her cheek. The witness had then started taking the deceased with him but she stated that she wanted to take a final decision and wanted to talk to the accused. Therefore, this witness went with the deceased to the flat of the accused. After opening the door, the accused as per the witness, pushed the deceased so hard that she went and fell near the lift. Stating that the deceased had come to know about the accused meeting his ex-girlfriend-which was opposed by her due to which the accused had

become angry and used to assault and abuse the deceased, this witness also stated that the said ex-girlfriend Saloni Sharma had told the deceased to go away from the life of the accused and had also abused her.

24. Similar contentions have also been made by Smt. Kamyia Punjabi. She further stated that the deceased had told her that the accused used to insult her as she was not getting work. Stating that the deceased had telephoned her in the month of March at which time she was very afraid and had told her about the accused beating her, torturing her and having relations with other girls, she, as per the witness, had asked for her help in leaving the accused. Not only this, but as per the witness, the accused had taken full control of the deceased and harassed her if she behaved against his wishes.

25. The fact of the accused being after the deceased's money has also been spoken about by the maid servant of the deceased-one Renu Sinha. In her statement, this witness has reiterated the fact of the accused fighting with the deceased on account of she talking a lot with her male friends and of he demanding money from her. Further, as per this witness, the deceased had told the accused that she could not give him any money as all of her financial transactions used to be done by him and of her debit cards being with him. Not only this, but on one occasion the deceased as per the witness, had also shown her the injuries suffered by her i.e. the deceased on her left hand and left leg due to the accused. Further, this witness had stated that she had seen the accused forcing the deceased to drink on various occasions after which she had started drinking due to the harassment being suffered by her. Stating that the deceased used to tell her that it was not easy to

leave the accused as she was very afraid of him, this witness stated that all the deceased's money and debit cards used to be taken by the accused and that she had to even ask him for sums of Rs.1,000/- to Rs.2,000/-.

26. The fact of the accused using and taking full control of the finances of the deceased will prima facie also be apparent from the statement of Viresh Vasant Naik and Parvez Shaikh. Viresh Naik who is an estate agent has in his statement stated that the rent agreement for the house in Sai Dham Building, Link Road, Kandivali (W) was in the name of the father of the deceased. After completion of the license period, the owner of the flat and this witness had gone to give a cheque of Rs. 1 Lakh in the name of the deceased's father. But the accused as per this witness, told him to give a cheque in the name of the deceased and told the said deceased not to let the money go into her father's account. The deceased then as per this witness, took an NOC from her father after which she took the cheque. Lastly, this witness had stated that it was the accused who was using the money of the deceased and used to control her.

27. The statement of one Parvez Shaikh will also prima facie establish the fact of the accused fully controlling all aspects of the deceased's life and taking her money from her. As per this witness, he used to be treated as a driver-cum-assistant-cum-servant by the accused who did not allow the deceased to meet her friends and kept using her debit and credit cards. He further stated that on the cheques of the deceased being cleared, the accused used to immediately withdraw the money and make this witness deposit the same in his accounts in the Jharkhand Welfare Society, Maharashtra Bank and the State Bank of

India. In this manner, almost Rs.5 Lakhs to Rs.6 Lakhs of the deceased were deposited by him in the accounts of the accused. This witness has also said that the deceased used to be very depressed and had told him about the accused destroying her life as she had to ask him for money even for her own expenses.

28. The fact of the accused being inclined to take the money from people by promising certain things and then failing to return the money after not fulfilling his promises will also be prima facie apparent from the statements of one Saloni Sharma and her father Vijay Sharma. In his statement, Vijay Sharma has stated that initially, Rahul i.e. the accused had introduced himself as a person having a production house and had taken Rs. 10 Lakhs from him saying that he would make a film for his daughter Saloni. Stating that the accused had taken a total of Rs.29 to 30 Lakhs from him and his daughter Saloni and had never returned the same, this witness stated that the accused had cheated his daughter. Similar contentions have been made by Saloni Sharma in her statement. Therein, she has stated that the accused had proposed to her in 2011 and had taken Rs.30 Lakhs from her over a period of time. However, he had concealed the fact of being an already married man and after the witness found out about the same, had said that his family had got him forcibly married and that he would soon get a divorce. However, he had never shown her any divorce papers. Not only this, but stating that the accused had denied having any relationship with the deceased but that she had come to know about the same in June 2015, the accused, as per this witness, had cheated her. As regards the contentions about the accused always harassing the deceased, it will have to be noted that even one Mudit Nayar-a neighbour of the couple in the place where they had subsequently shifted to, has stated that he

used to hear the noise of assault from the house of the deceased and the accused and had even seen her crying while talking to somebody on the phone.

29. The aforesaid statements of the deceased's parents, uncle, aunt, friends, employees, servant and neighbours will therefore, prima facie make out a case of the accused after entering the life of the deceased, having slowly but surely taken control over all the aspects of her life, specially her financial transactions. There is also prima facie material to indicate that the accused used to suspect the character of the deceased and even used to abuse and physically assault her. He had also made the deceased's parents leave Mumbai, thereby leaving her emotionally vulnerable and completely dependent upon him and under his control. Even the debit cards of the deceased used to be with the accused and on some occasions she had to ask him even for small amounts of Rs.1,000/- to Rs.2,000/-. Not only this, but he had also started taking out money from the accounts of the deceased and started depositing the same in his own account.

30. Though much arguments have been advanced on the point of the parents of the deceased living off her earnings and making her take loans, the only facts which are apparent on record are of the deceased having taken a personal loan of Rs.10 Lakhs through one Chirag Lavana and Dipen Patel in September 2013 out of which a sum of Rs.5,67,500/- remained outstanding. Further, the statement of Manish Shah and Krunal Mithani will show that the deceased had taken a personal loan of Rs.7,50,000/- from the HDFC Bank, some of the amount of which had remained outstanding. It is however, clear that these loans had been taken by the deceased before her relationship had commenced with the accused.

31. The fact however, remains that the deceased had made money by working as an actress and did have avenues of working to repay her loans. In spite of this, the statements on record i.e. of Renu Sinha, Dipanker and Barnali Banerjee will prima facie show that the accused was not letting the deceased work in serials of her choice. Further, if the accused as stated would have been worried about the deceased's financial situation, and had wanted to prevent her financial exploitation at the hands of her parents, then he would not have taken out almost 5-6 Lakhs from the accounts of the deceased and deposited the same in his account, as that money could have been utilized by the deceased in paying off her loans and in stabilizing her life. It is therefore, quite clear that the accused was only interested in looking after his own financial interest when he was in a relationship with the deceased and was using her romantic inclination towards him for his financial benefit which was to her detriment.

32. The fact that the deceased was severely depressed on account of the behaviour of the accused in taking over control her life and making her live without the support of her parents will also be prima facie be clear from the statement of one Vinesh Jairaj, a social worker who was working as a counsellor in the Omni Health Services Private Limited. A perusal of the statement of this witness will show that on 30/03/16 his company had received an e-mail from one Pratyusha on it's mail ID registered with Just Dial with a phone number. He had immediately called the number and Pratyusha Banerjee told him that she was under depression about her relationship issues for which she needed counselling. An appointment was therefore, booked on 31/03/16 which was however, cancelled by the deceased.

33. The statement of one Shayna Seth a tarot card reader will also reflect the fact of the deceased being under the complete control of the accused and being very afraid of him. In her statement, this witness has stated that Pratyusha had telephoned her at 1.40 p.m. on 31/03/16 and asked her for an appointment saying that she was depressed due to her relationship with the accused. An appointment was fixed at 5.00 p.m. in which Pratyusha as per this witness, stated that she had started suffering greatly since the time the accused had come into her life. She also stated that due to him, her parents had become distanced from her and he did not allow her to meet her friends, troubled her and behaved as per the instructions of his ex-girlfriend Saloni Sharma. Not only this, but the deceased as per the witness, also stated that the accused had not saved her when Saloni had assaulted her. Even during the appointment, the accused, as per the witness, was repeatedly telephoning the deceased due to which she was getting disturbed and told the astrologer that the accused had complete control over her and would even come to the place of the astrologer. Stating that the deceased was afraid of the accused, this witness stated that she i.e. Pratyusha had left quickly due to his pressure.

34. The aforesaid statements, in my opinion, will prima facie show that after entering the life of the deceased, the accused had made the same a living hell. This had been done by first making her parents distant from her and then stopping her from being in contact with and meeting her various friends. Not only this, but in the same manner as the accused had taken money from Vijay and Saloni Sharma, he, by manipulating the deceased, withdrew large amounts of money from her bank accounts and was in complete control of her debit and credit cards which resulted in the deceased being compelled to ask him for even

small amounts of money like Rs.1,000/- to Rs.2,000/-. Not only this, but the fact of the accused consistently being physically violent towards the deceased will also be reflected from the said statements. The abrasion marks found on the left wrist of the deceased which was noted in the Kokilaben Hospital in which she had first been come to be admitted and even in the postmortem report will, as argued by Shri Deotarse the learned APP, corroborate the said fact.

35. The statements of the parents, uncle and aunt of the deceased have however, been sought to be discredited by saying that they are hearsay witnesses. No doubt that the uncle and aunt of the deceased had not actually witnessed the accused assaulting her. But she had, according to them, clearly told them about being so assaulted and had also shown her injuries to them. Hence, their contentions about the same cannot, be ignored.

36. An argument has however, been advanced by the Advocate for the accused that even if the deceased was indeed facing any such harassment, she being a girl who was only in a live-in relationship with the accused and financially independent, capable of taking her own decisions, could have easily left him. The fact that she did not do so, according to him, will show that she was happy with him. No doubt that the deceased was a girl who built her life by her hard work and was financially independent when she entered into a relationship with the accused. However, as found from the statements of the various witnesses and as already pointed out hereinabove, the accused had, over a period of time, taken complete control of her life, her emotional, physical, financial aspects, etc. Not only this, but it appears that even though the deceased had with her own eyes seen the accused cheating

her by again coming into contact with his previous girlfriend, she was still, for reasons best known to her, inclined to marry him.

37. Such a decision may be difficult for third persons to understand. But, the deceased, by this time, having burnt her bridges i.e. to say that having isolated herself from her family and her friends in order to give her all to her relationship with the accused, she could have found it difficult to break her ties with him. even though she could obviously see that he was abusing her in all possible ways.

38. This conclusion, in my opinion, cannot be said to be far fetched as while the statements of the friends of the deceased like Kamyia Punjabi will show that Pratyusha had sought her help in March 2016 for leaving the accused, she had told her maid servant Renu Singha that it was not easy to leave the accused. Not only this, but as per this witness, she had seen that the deceased was very afraid of the accused. The fact that this witness stated that she had seen the accused force the deceased to drink on various occasions after which she had started drinking due to the harassment of the accused, will indicate the fact of the accused having used all possible tactics to make the deceased feel hopeless and helpless, thereby making it impossible for her to leave him.

39. An argument has been advanced by the Advocate for the accused about the deceased being addicted to alcohol and drugs ; and of having taken the decision to commit suicide, under it's influence. But, as already stated here in above, there is material to show that it was the accused who had introduced the deceased to alcohol. The statement of one Pallavi Yogendra Singh will also prima facie indicate that she had

supplied 1 gram of MD to the accused on 31/03/16. Not only this, but at 4.15 a.m. on 01/04/16 the accused as per this witness, had telephoned her and demanded 2 grams of cocaine which however, could not be supplied to him. It is therefore, prima facie clear that it was the accused who was facilitating the supply of drugs to the deceased, inspite of knowing the fact of she being in a depressed and disturbed state of mind. His intent to have the deceased completely under his thumb is therefore, writ large on the face of the record. At this stage of the trial therefore, only on the basis of the last conversation, it cannot be said that the deceased being drunk and in no mood to see reason though the accused could be heard consoling her, repeatedly telling her that he loved her and telling her that he would return home in 30 minutes, he could not be said to have abetted her suicide.

40. This is specially so as the physical and emotional distress in which the deceased had found herself in the month of March 2016 can be easily ascertained from the statements of her uncle Dipanker, aunt Barnali and that of Dr. Veena Shinde. A perusal of the statement of this doctor will show that on 07/03/16 the deceased had been found to be 7 weeks pregnant. In spite of this, she had undergone an abortion due to her work. Though the deceased would therefore, have been under much distress, her uncle Dipanker's statement will show that she had in her visits to his home at the end of January 2016, February and March 2016 always told him about the accused drinking, abusing and assaulting her as also about he having threatened to destroy her whole family if she would inform them about the said harassment. The deceased, as per this witness, had also told her that she did not have the will to live anymore and was thinking of committing suicide. The pitiable condition to which the deceased had been reduced to by the accused can scarcely

be imagined. Not only this, but Barnali – Dipanker's wife, has in her statement also stated that on 31/03/16 the deceased had called her and told her that the harassment of the accused had increased, of he having assaulted her on her face due to which she had suffered injuries on her lips and nose.

41. The aforesaid statements when co-related with the statements of the counsellor – Vinesh Jairaj and Shayna Seth – the tarot card reader – who the deceased had met in the evening on 31/03/16, will prima facie show that inspite of having been brought to the brink of suicide by the harassment of the accused, the deceased did not have the strength to leave him inspite of their toxic relationship. This fact cannot at this stage, however, help him in any way. This is because, the material on the record prima facie shows that though the deceased was earning her own livelihood and living independently, she had left herself be completely controlled by the accused and was under his thumb.

42. In the course of his arguments, Advocate for the accused has gone into great detail while referring to the transcript of the last conversation between the deceased and the accused prior to the deceased committing suicide. In the course of the same, it has been pointed out that the deceased has blamed her parents, that she even doubted as to whether they were of the same blood or not. The blame for the suicide by Pratyusha has therefore, been sought to be placed on the shoulders of her parents by alleging that they were financially exploiting her and constantly interfering in her life. Hence, stating that the accused and the deceased had expressed their love for each other, after which the accused had asked the deceased to wait for him, he, as per his Advocate cannot be said to have abetted her suicide.

43. However, as pointed out by Shri Deotarse the learned APP, a single statement in the last conversation between the deceased and the accused cannot be misconstrued as the whole of the conversation will also have to be considered for reaching any conclusion. No doubt that the deceased has in the said conversation, stated that her parents were selfish and she even suspected as to whether they had the same blood or not. At the same time, it will have to be kept in mind that in the said conversation, she also said that she was being threatened and being called characterless and that threats of killing her parents had also been given to her. If the deceased would have really been so against her parents, she would certainly have not bothered about the threats given to them.

44. Further, no doubt that the deceased and the accused have in that conversation, stated the fact of each loving the other. However, during the said conversation, it will have to be kept in mind that the deceased had also abused the accused by calling him "Haramjada". Further, as pointed out in the discussion in the foregoing paras, the deceased had, by 01/04/16 - on account of the harassment – emotional, physical and financial by the accused, started suffering from depression, had lost her will to live and even started thinking about suicide. Quite sickeningly, even during the last conversation between them, it is the accused who is found telling the deceased that she had been looted out of her money even though the facts on record will indicate to the contrary. Hence, considering all the facts brought on the record through the statements of the witnesses, I am of the view that stray things mentioned in the last conversation between the deceased and the accused by the deceased regarding her parents, cannot be taken out of the context, to hold that it was the conduct of her parents and the fact of she being penniless on

account of not getting any work, which could have prompted the deceased to commit suicide, and of therefore, the accused being blameless.

45. In the course of his arguments, the Advocate for the accused, has also referred to the observations made by the Hon'ble High Court while releasing the accused on anticipatory bail. The same according to him will show that the accused has a good case on merits and is innocent. It will however, have to be appreciated that the said observations in the order granting anticipatory bail will have to be restricted to the consideration of the anticipatory bail application and nothing more. At that point of time, the chargesheet not having been filed, it cannot be said that the observations made therein are required to be considered at this stage for determining as to whether the accused is entitled to discharge. Further, there being other substantial material on the record, the only fact of the deceased not having left any suicide note blaming the accused for her death, cannot be sufficient to absolve him from the said charge.

46. Undoubtedly, the rulings as relied upon by the Advocate for the accused will go to show that in order to show that a person has abetted the thing, it will have to be shown that he has intentionally aided by any act or illegal omission, the doing of that thing. Further, as argued by the Advocate for the accused, proof of mere harassment would not satisfy the requirements of an offence under section 306 of the IPC. In my opinion, however, considering all the material as available in the chargesheet, it is prima facie clear that it was the conduct of the accused i.e. his physical, emotional and financial harassment and exploitation of her which had landed the deceased in depression, such

that she had expressed her desire not to live further on account of the same to her aunt Barnali Banerjee and the tarot card reader. The accused who was living with the deceased could not be said to have been unaware about the state of her mind as also of she being caught in a catch 22 situation i.e. about she being aware of it being beneficial and necessary to leave her exploitive partner, but still wanting to marry him. This state of being of Pratyusha as per the material, on record, was on account of the accused, whose harassment made her think about suicide. The fact that he did not take any steps to alleviate her sufferings, in my opinion, will clearly bring him within the clutches of having abetted the suicide of the deceased as he could be said to have intentionally aided and incited the same i.e. the act of suicide, by his conduct.

47. It will have to be kept in mind that in **Mariano Anto Bruno-Vs-Inspector of Police (Criminal Appeal No.1628/2022 Appeal dated 12/10/22)**, the Hon'ble Supreme Court while considering an appeal in a case on account of a conviction u/s.306 of the IPC, held that there must be proof of direct or indirect act/s of incitement to the commission of suicide. It was also held that for the purpose of finding out if a person has abetted the commission of suicide by another ; the consideration would be if the accused is guilty of the act of instigation of the act of the suicide. It was further held that if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within four-corners of section 306 of the IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. In such

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circumstances, it was held that this being a matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

48. Thus, in view of the discussion in the foregoing paras, by considering all the material as available in the chargesheet and the ratio of the judgment in Mariano Bruno's case, I am of the view that there is prima facie material in the same to reflect the involvement of the accused in the crimes for which he has been chargesheeted. I therefore, proceed to pass the following order :-

ORDER

Discharge Application Exhibit-5 stands rejected.

Date : 14.08.2023

**(S. J. Ansari)
Additional Sessions Judge
Sessions Court, Borivali Division,
Dindoshi, Goregaon, Mumbai**

Dictated on : 14.08.2023
Transcribed on : 17.08.2023
Checked and corrected on : 28.08.2023
Signed on : 28.08.2023
Sent to Dept. on :

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

**UPLOAD DATE
AND TIME : 28/08/2023 at 4.30 p.m.**

**Mrs. Vidya Pendharkar
NAME OF STENOGRAPHER**

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Name of the Judge (with Court Room No.)	HHJ Ms. S. J. ANSARI (Court Room No.11)
Date of Pronouncement of Judgment/Order	14/08/2023
Judgment/Order signed by P.O. on	28/08/2023
Judgment/Order uploaded on	28/08/2023