

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO. 3216 OF 2015.

DNYANESHWAR S/O BABURAO CHAVAN & OTHERS.

VERSUS

THE STATE OF MAHARASHTRA & OTHERS.

Appearance =>

Mr. Sudarshan J. Salunke, Advocate for the Applicants.

Mr. D.V. Tele, Additional Public Prosecutor for the State of Maharashtra.

Mr. Vilas Sawant, Advocate a/with Mr. N.B. Khandare, Advocate for the First Informant.

CORAM : V.M. Deshpande, J.

DATE : 30th July, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of anticipatory bail, since they are apprehending their arrest in connection with CR No. 101/2015 registered with Police Station, Georai, Taluka – Georai, District - Beed for the offences punishable under Section/s. 306 read with 34 of the Indian Penal Code.

[2] Heard Mr. Sudarshan J. Salunke, Advocate for the Applicants, Mr. D.V. Tele, Additional Public Prosecutor for the State and Mr. N.B. Khandare, Advocate a/with Mr. Vilas Sawant, Advocate for the First Informant.

[3] Applicant No.1 is the son of Applicant Nos. 2 and 3. Marriage of Applicant No.1 was fixed with the daughter of First Informant. Name of the First Informant is Sunita Rathod. Her daughter's name is Vaishali. Husband's name of First Informant is Bhanudas. The couple used toiled in the agricultural field. The couple is having two sons alongwith daughter – Vaishali. Like every parent, they dream for good groom for their daughter. First Informant and deceased Bhanudas searched therefor and their searched was zeroed down on Applicant No.1. Applicant No.1 is serving as a Mechanic with the Maharashtra State Road Transport Corporation.

[4] Engagement ceremony took place. The Applicants and the First Informant belongs to a particular community, which is having a Panch Committee. Raosaheb, Chhagan, Gulab and Janardhan are the panch. Their age show that they are elderly persons and have attained the age of 70 years. These panchas are independent persons. They are not having any affection either for the side of bridegroom or groom. Even this fact is not disputed by the learned counsel for the Applicant – Mr. Salunke.

[5] Engagement ceremony was performed in the presence of above panchas alongwith other relatives from both the sides. At the time of engagement, Sunita and her deceased husband – Bhanudas gave Rs.5 Lakhs in cash and one tola gold to the Applicants. This fact is corroborated by the panchas, who are named in the preceding paragraphs that in their presence, this amount was given to the Applicants. Though engagement took place however, at that time Vaishali was minor by few months, therefore, it was decided by Sunita

and her husband Bhanudas, as law abiding citizens of this country that marriage will be performed only after Vaishali attains the age of majority. After attaining the age of majority when Sunita and her husband – deceased Bhanudas made a proposal for fixing the date of marriage at that time, grid of the Applicants was increased.

It appears that they thought that both the “groom” and “bridegroom” are salable commodity, therefore, the Applicants fixed the rate of Applicant No.1 for Rs.10 Lakhs and also demanded one bullet motorcycle.

[6] Point-blankly they submitted to Sunita and her husband Bhanudas that unless additional amount of Rs.5 Lakhs and one bullet motorcycle is given, they will not perform the marriage of Applicant No.1 with Vaishali.

Naturally, Maruti suffer mental trauma on two counts, **firstly**, since he was unable to fulfill the additional demand of Applicants, his dream to see his daughter is married, will remained unfulfilled and **secondly**, amount of Rs.5 Lakhs which he has given to the Applicants was waste since the Applicants flatly refused to return the said amount.

[7] The statement of assertion made in the First Information Report that due to this Bhanudas was under tremendous mental condition is but natural and. therefore, on 23rd May, 2015 he committed suicide by consuming insecticide.

[8] There is live link available in the prosecution case in respect of the demand and the suicide.

[9] “Instigation” can be made directly or indirectly. Instigation can be made by (i) words (ii) gesture or (iii) conduct. Present case falls in the third category namely “conduct” on the part of the present Applicants. Due to their conduct, as described in the preceding paragraphs, prima facie, I am of the view that Applicant Nos. 1 and 2 have instigated the Bhanudas to commit the suicide.

In so far as Applicant No.3 – Mandubai is concerned, discretion can be exercised in her favour, she being a lady and in addition to her womanhood, from the investigation papers, there is nothing available on record to show that, she was part and parcel of the demand made by Applicant Nos. 1 and 2.

Further Mr. D.V. Tele, learned Additional Public Prosecutor is also fair in submitting that custodial presence of Applicant No.3 is not required.

[10] Aforesaid survey, as discussed by this court from the prosecution case, leads me to reach to the prima facie conclusion that Applicant Nos. 1 and 2 are responsible for untimely death of Bhanudas, who committed suicide.

[11] Courts are normally is liberal while granting the anticipatory bail in connection with offence punishable under Section 306 of the Indian Penal Code however, when there is sufficient

material available on record to show that, Applicant Nos. 1 and 2 have instigated Bhanudas to commit suicide, wrong signal will go the Society if the anticipatory bail is granted in their favour, in such a serious offence. In that view of the matter, application filed by Applicant Nos. 1 and 2 needs to be dismissed. Hence, I pass the following order :-

ORDER

(i) Criminal Application is partly allowed.

(ii) Application filed by Applicant No.1 - DNYANESHWAR S/O BABURAO CHAVAN and Applicant No.2 – BABURAO HARILAL CHAVAN is dismissed.

(iii) Criminal Application filed by Applicant No.3 – MANDUBAI W/O. BABURAO CHAVAN is allowed.

(iv) In the event of arrest, Applicant No.3 – MANDUBAI W/O. BABURAO CHAVAN shall be released on anticipatory bail on she executing PR. Bond of Rs. 10,000/- [Rs. Ten Thousand.] with one solvent surety in the like amount, in connection with CR No. 101/2015 registered with Police Station, Georai, Taluka – Georai, District - Beed for the offences punishable under Section/s. 306 read with 34 of the Indian Penal Code.

(v) With this Criminal Application is partly allowed and same is disposed of, accordingly.

(vi) Needless to mention, observations made in this order are only for the purpose of deciding present Criminal Application and if Application for regular bail is filed by Applicant Nos. 1 and 2, the court below, may not get himself influenced by such observations.

(V.M. DESHPANDE, J.)