

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 CRIMINAL APPLICATION NO. 4909 OF 2016

**ANNA S/O NAGNATH KHANDEKAR
& ANR.**

VERSUS

THE STATE OF MAHARASHTRA

**WITH
CRIMINAL APPLICATION NO. 4911 OF 2016**

GANESH S/O ANKUSH MADANE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. M.D.Shinde, Advocate for Applicant.

Mr. S.M.Ganachari, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 21st SEPTEMBER, 2016

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PER COURT :

1. The applicants, who are accused in Crime No. 15/2015 registered at Ambajogai [Rural] police station, Dist. Beed for the offences punishable U/ss 306,323 read with 34 of the Indian Penal Code, by these applications are

claiming pre-arrest bail.

2. Heard the learned counsel for the applicants. He argued that perusal of the F.I.R. goes to show that even if the incident of consumption of poison took place on 04/01/2015, it can not be said that the applicants abetted Sambhaji Devkate for commission of suicide.

3. The learned A.P.P. opposed the application by contending that the applicants had abducted Sambhaji Devkate and he was detained for about 4 days by them. He argued that there are statements of witnesses, which shows that the deceased was threatened by the accused persons.

4. Perused papers of investigation. The applicants Anna and Ganesh have advanced an amount of Rs. 12 Lakh for providing contract labourers to Sambhaji Devkate [since deceased]. Accordingly, deceased Sambhaji Devkate provided 34 labourers to them. However, after about one month, 14 labourers ran away. Therefore, according to the prosecution case, the applicants Anna and Ganesh were demanding back the amount advanced by them from deceased Sambhaji Devkate. It is averred that the applicants along with other accused abducted deceased Sambhaji Devkate and detained him for about 4 days. According to the prosecution case, then on 04/01/2015, Sambhaji Devkate consumed poison and he died suicidal death on 23/01/2015.

5. For making out the offence of abetment, the

intention as well as knowledge are relevant. *Prima facie*, it appears that intention of the applicants Anna and Ganesh was to get back the money advanced by them to deceased Sambhaji Devkate for providing contract labourers. Even from the F.I.R., it appears that abduction took place in the last week of November, 2014 or at the most in the first week of December, 2014. The incident of consumption of poison by the deceased took place on 04/01/2015. The question would be whether there is reasonable nexus in the act of abduction and the act of consumption of poison.

6. Considering the nature of averments against the applicant/accused as well as nature of the crime in question, custodial interrogation of the applicants is not warranted and, therefore, the order.

(i) Both the applications are allowed.

(ii) The Order dated 31/08/2016 granting ad-interim anticipatory bail to the applicants is confirmed on same terms and conditions.

(iii) In addition, the applicants Anna s/o Nagnath Khandekar, Ankush s/o Aavuji Madane and Ganesh Ankush Madane shall attend the concerned police station as and when reasonably called by the Investigating Officer.

[A.M.BADAR, J.]