

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.343 OF 2016

Rahul Madhukar Patil and Others ... Applicants

vs.

The State of Maharashtra and Another ... Respondents

Mr. Rajiv Patil a/w. Ms. Priyanka Thakur i/b. Mr. Hasan Patel,
for the Applicants.

Mr. S.H. Yadav, APP for Respondent – State.

Mr. Amit Gharte, for Respondent No. 2.

Mr. A.H. Pawar (P.I.), Bhiwandi police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **21st APRIL, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicants/accused are facing charges for the offences punishable under Sections 306, 504 and 506 of the Indian Penal Code in C.R. No. I-355 pf 2015 registered with Bhiwandi police station, Dist.Thane. The offence is registered at the instance of wife of the deceased namely Geeta Patil on 17th December, 2015.

2. It is the case of the prosecution that deceased Nitin Patil has committed suicide on 20th November, 2015. It is the case of the

complainant that she got married with the deceased Nitin on 25th November, 2007 and after marriage she started residing with her husband Nitin at Mansarovar. The applicant/accused No. 1 is her brother in law, No. 2 is the wife of brother in law and No. 3 is her sister in law. It is her case that the applicants/accused used to harass her and her husband. They were not giving money to her husband. Her husband used to work for the shop and their business. However, the applicants/accused used to take money and her husband was not given any share of business. They did not have money to pay the rent for their room of Mansarovar. Due to this, the relations between the complainant, her husband and the applicants/accused became strained. The threats were also given by the applicants/accused to her husband. Her husband was economically exploited by his relatives i.e. applicants-accused. On 15th November, 2015 the deceased told the complainant that she should go to Baroda at her maiden home. When she was at Baroda, her husband told her that applicant/accused No. 1 has told other co-accused and Ajay Varkute and Abhay Varkute to kill him. Both the applicants/accused along with one Umesh Gaikwad and the co-accused have threatened the deceased Nitin that he should not attend the shop. Thus, the deceased has gone under depression

because of the threats. He also told her to give complaint against the applicants/accused and Abhay Varkute, Ajay Varkute and Umesh Gaikwad. Therefore, on 20th November, 2015 in the morning the complainant started returning from Baroda to her house. In the meanwhile, when she was reached near Borivali, her husband phoned her. However, when she reached at home at about 2.30 p.m., nobody opened the door. She contacted her husband on his cell phone however, he did not reply. So she called the neighbours. Some of them entered through window and opened the door. At that time, she noticed that her husband hanged himself. However, he had left a suicide note wherein he has blamed his relatives i.e. applicants /accused and the co-accused. The deceased has specifically mentioned in the suicide note that he has committed suicide because of the harassment at the hands of the applicants/accused and the threats given by them and co-accused. Hence, she lodged complaint and the offence was registered.

3. The learned senior counsel for the applicants/accused has submitted that the applicants/accused have not committed any offence. They are innocent. They did not harass the deceased or the

complainant. The learned senior counsel relied on the information i.e. statement of the father of the deceased Madhukar Patil which was recorded on 20th November, 2015. He stated in his statement that the deceased committed suicide because he used to spent money and give money to his wife. That is why he was always in need of money. He was in debt of many people and was under depression and hence he committed suicide. He had also quarreled with the family members. The learned senior counsel drew my attention on N.C. (Exhibit 'B') recorded at the instance of father of the deceased on 15th November, 2015 wherein it is mentioned that the deceased had assaulted his father and the mother and he also broke LED T.V. set in the house and also threatened that he would commit suicide.

4. The learned prosecutor oppose the application and relied on the suicide note which is written in the diary. It is submitted that the applicants/accused are specifically blamed for committing suicide by the deceased. They used to harass the deceased. They also hired three persons to give threats to the deceased. He submitted that the ingredients of Section 107 of Indian Penal Code i.e. "*abetment*" are made out in this case and hence the application may be rejected.

5. Perused the first information report, the suicide note and the statement of the complainant Geeta. The applicant/accused No. 1 is the brother and No. 2 is the wife of brother and No. 3 is sister in law of the deceased. They all are hostile to the deceased and complainant Geeta. There was demand of money from the deceased in respect of his share in the shop. They did not give share of deceased Nitin. However, the deceased and the complainant are staying separately in a different house at Mansarovar. Though the case of the prosecution is accepted as it is, in view of the definition of “*abetment*” under section 107 of Indian Penal Code, 1860, I am of the view that *prima facie* the case of the applicants/accused may not fit in the ambit of Section 306 of Indian Penal Code. Hence, I am inclined to grant pre arrest bail to the applicants/accused on the following terms and conditions:

- a) In the event of arrest, the applicants/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 30,000/- each with one or two solvent sureties in the like amount;
- b) The applicants shall not tamper with the evidence;
- c) The applicants shall not contact the complainant and her relatives and shall not pressurize them.

d) The applicants shall not leave India without prior permission of the Court.

e) The applicants shall cooperate with the Investigating Officer and shall attend Bhiwandi police station, Dist. Thane on every Friday between 10.00 am to 12.00 pm for one month.

6. Accordingly, anticipatory bail application stands disposed of.

(MRIDULA BHATKAR, J.)