

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.596 OF 2016

1) ABHAY BABAN VARKUTE)
2) AJAY CHANDRAKANT VARKUTE)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Shri Chetan S. Damle i/b. Shri Aniket Nikam, Advocate for the Applicants.

Shri S.H.Yadav, APP for the Respondent – State.

Smt.Prabha Badadare, Advocate for the Intervenor.

Shri P.D.Bhosale, P.S.I., Bhivandi City Police Station, present in court.

CORAM : P N. DESHMUKH, J.

DATE : 9th JUNE 2016.

P.C. :

1 Both these applicants involved in Crime No.I-355/2015 registered with Bhiwandi Police Station on 17th December 2015 for the offences punishable under Sections 306, 504 and 506 of the IPC have sought anticipatory bail. The

applicants are protected by interim bail granted by this court on dated 4th April 2016 by imposing certain conditions which are stated to be complied by the applicants by co-operating the investigation.

2 The offence is registered on the basis of report lodged by wife of deceased Nitin Patil. I have perused the same, which is in detail, involving applicants as well as the co-accused. The offence is registered against six accused persons who are named in the report. From the report it reveals that there are some incidents of altercation of words between deceased and his younger brother Rahul on 14th November 2015 and 15th November 2015 and in the background of the same, it is further stated that deceased had informed complainant that Rahul has extended threats to kill him at the hands of applicants. All these facts were narrated by the deceased to complainant Geeta on phone while she was at Baroda. Admittedly, complainant thereafter returned from Baroda on the day of incident which had taken place on 20th November 2015. The learned APP as well as Smt.Prabha

Badadare, the learned counsel for the intervenor, have mainly opposed the application on the ground that during the course of investigation suicide note came to be recovered from the spot and has contended that from the contents of the said suicide note, ingredients of offence punishable under Section 306 of the IPC have been clearly made out.

3 I have perused the same. In the background of the contents therein along with the provisions of Section 306 of the IPC, it is noted that the incident in question took place on 20th November 2015 between 1.00 p.m. and 2.30 p.m. There are absolutely no any allegations against the applicants or other co-accused in the suicide note establishing their abetting for instigating deceased to commit suicide at the material time. Infact, the report itself appears to have been lodged on 17th December 2015 and the incident had occurred on 20th November 2015. From the contents of the suicide note it is further revealed that suicide is committed by deceased for the alleged ill-treatment provided to him and his wife by his family members consisting of

his brother Rahul and sisters-in-law namely Ashwini and Maya Patil. The applicants are neither related to the deceased which according to the contents of the FIR were procured by co-accused to commit assault on deceased. Admittedly, the anticipatory bail granted to co-accused Rahul, Ashwini and Maya is confirmed by this court by its order dated 21st April 2016.

4 Considering the facts involved in the present crime and particularly fact of evidence being not on record to establish that immediately prior to deceased committing suicide there was instigation at the hands of either of these applicants, application is liable to be allowed.

5 Accordingly, the interim protection granted to both the applicants vide its order dated 4th April 2016 is confirmed on the same terms and conditions and in addition thereto, it is directed that both the applicants shall attend the Investigating Officer as and when called till the filing of the charge-sheet.

(P. N. DESHMUKH, J.)