

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1389 OF 2016

1 Javarishth Indrabhan Kochar	
2 Babaji Bhivaji Padwal	
3 Babu Hari Padwal	
4 Mohan Bajirao Kithe.	... Applicants.
Versus	
The State of Maharashtra	... Respondent.

Mr. A.P. Mundargi, Sr. Counsel i/b. Mr. Jayant J. Bardeskar, advocate
for Applicants.

Mr. Arfan Sait, APP for State.

Mr. M.S. Navghare, PSI, Shirur Police Station, Pune(Gramin).

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 24, 2016**

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicants herein are apprehending their
arrest in Crime No. 350 of 2016 registered at Shirur Police Station

for offence punishable under Section 306, 384 read with section 34 of the Indian Penal Code on 26/7/2016.

3 It is the case of the prosecution that on 26/7/2016 Shobha Dattatray Kshirsagar lodged a report at the police station that her husband had committed suicide on that day. It is the case of the complainant that present applicants were demanding Rs. 30,000/- from her husband for the purpose of renovation of Bhairavnath Temple. That they had imposed the cost of Rs. 30000/- upon him, since he was not performing pooja properly. He was also pointed as pujari of the said deity. It is further alleged that he was being pressurised by the applicants for paying the said amount of Rs. 30,000/-. That on 25/7/2016 he was called to the temple and there also harassment was meted out to the husband of the complainant for paying the said amount. It is further alleged that on that day, the husband of the complainant had not returned home and had sent his bag. The husband of the complainant had committed suicide by hanging himself to the ceiling fan in a room, which is adjacent to the

temple. The son of the complainant had seen him hanging. The report was lodged in the police station and thereafter, the applicants are being prosecuted for an offence punishable under Section 306 of the Indian Penal Code.

4 The learned Senior Counsel appearing for the applicants submits that in fact, by virtue of being Gurav, he was also appointed as Pujari of the said temple. He was not only not performing pooja properly, but had entered into the temple premises under the influence of alcohol. That his services were discontinued. He was subsequently reappointed. He had also given an undertaking to the temple committee that he would keep the temple open from morning 4 a.m to 12 noon. That he would not cause obstructions to the villagers in attending the temple etc.

5 The learned APP has submitted that the applicants herein had no authority to impose cost upon the deceased and that it is not contemplated by any law. It is also submitted that the applicants

have taken the law in their own hands and had used the powers to such an extent that he was left with no other alternatives but to commit suicide.

6 This Court cannot be oblivious of the fact that the deceased was also working as postman in the village. Taking into consideration the nature of the allegations and the papers of investigation, it cannot be said that the applicants had abetted, instigated or facilitated commission of suicide. That there was no complaint lodged to any authority and neither to the police station about the demand of Rs. 30,000/-. That it cannot be said that it is a caste panchayat. In view of this, the applicants deserves pre-arrest bail.

7 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the time of deciding application for discharge or for quashing of FIR or at

the time of trial. The same shall be decided on its own merits in accordance with law.

8 Hence, following order is passed.

ORDER

(i) In the event of arrest in Crime No. 350/2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each and one or two sureties in the like amount.

(ii) The applicants shall report to the police station from 27/8/2016 to 30/8/2016 between 10 a.m. to 12 noon and cooperate with the investigating agency.

(iii) The applicants shall not tamper with the evidence.

(iv) The applicants shall furnish their addresses and contact numbers to the concerned Investigating Officer.

9 The application stands disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)