

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1850 OF 2016

Shri Bhimashankar Birappa Nimbale ..	Applicant
Vs.	
The State of Maharashtra ...	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 1851 OF 2016

Virbhadrachannayya Swami ...	Applicant
vs.	
The State of Maharashtra ...	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 1873 OF 2016

Chanbasappa Shivsharanappa Kalburgi.	Applicant
vs.	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 1874 OF 2016

Maruti Shivaji Tonape .	Applicant
vs.	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 1892 OF 2016

Nanasaheb Krishnat Gate .	Applicant
vs.	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 2015 OF 2016

1.	Amol Balkrushna Yelane	)	
2.	Pramod Balkrushna Yelane	)	Applicants
	vs.		
	The State of Maharashtra		Respondent

Mr. Vinod Sangvikar i/b. Mr. Umesh Mankapure for applicant in ABA/1850/2016.

Mr. Viresh V. Purwant for applicant in ABA/1851/2016 & ABA/1874/2016.

Mr. Vishal Kolekar for applicant in ABA/1873/2016

Mr. Shriram S. Choudhari for applicant in ABA/1892/2016.

Mr. Ritesh Thobde for applicant in ABA/2015/2016.

Mr. Rajan Salvi, APP for the State in ABA/1850/2016 & ABA/2015/2016.

Ms. Veera Shinde, APP for the State in ABA/1851/2016.

Mr. Y.M.Nakhwa, APP for the State in ABA/1873/2016.

Mr. Prashant Jadhav, APP for the State in ABA/1874/2016.

Mr. R.M.Pethe, APP for the State in ABA/1892/2016.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 13th December, 2016.

P.C.

Heard. These are applications under Section 438 of Cr.P.C.

The applicants herein are apprehending their arrest in Crime No.297/2016 registered at Akkalkot North Police Station for the offences punishable under Section 306 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that Charusheela Banjarkar lodged a report at the police station alleging therein that her husband was working as a Principal of Zilla Parishad Primary School at Sasure, Taluka

Barshi. He was diagnosed with HIV Positive for the past 5 years. He was under treatment. He had not attended his duties from 21.8.2016 to 1.9.2016. He had obtained a certificate from Dr. Allolli's Hospital at Akkalkot that he is fit for resuming services. He wanted to resume and therefore he had been to meet the Taluka Development Officer Shri Vishnu Kamble on 3.9.2016. It is alleged that Vishnu Kamble had humiliated her husband.

3. On 6.9.2016, the husband of the first informant had committed suicide by consuming poison. After about 3 days, a chit was found in the shirt of the deceased in which he had allegedly written that he owed money to the applicants and that they had received the amount and yet harassing him. He had attributed specific role to all the applicants.

4. The learned counsel for the applicant submits that in fact he was indebted to a lot of people. Moreover, he was diagnosed with HIV Positive and, therefore, he had committed suicide and that the applicants had neither abetted, instigated nor facilitated the act of commission of suicide. The learned counsel for the applicant submits that in fact, the applicants before this Court are not even acquainted with each other and

therefore, they could not have been prosecuted with the aid of Section 34 of IPC.

5. It is pertinent to note that the applicants herein are also gainfully employed. Upon perusal of the records, it is clear that the applicants had not abetted the commission of suicide as it is not the case of the prosecution that the applicants had met the deceased during the period 3.9.2016 to 6.9.2016 as he had not yet resumed his duties. It is also submitted that the co-accused has been granted pre-arrest bail. The applicants deserve grant of pre-arrest bail.

6. The observations hereinabove are restricted to an application under Sec. 438 of Cr.P.C. and shall not be taken into consideration for quashing FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(iii) The applicants shall report to the concerned police station on six consecutive Sundays commencing from 17th December 2016 between 10 a.m. to 12 noon and co-operate with the investigating agency to the best of thir capacity.

The Applications stands disposed of.

(SMT. SADHANA S.JADHAV, J.)