

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

CRIMINAL APPLICATION NO. 5887 OF 2017

1. Babulal Mahadu Koli
Age: 60 years, Occu.: Labour,
2. Ravindra Babulal Koli
Age: 33 years, Occu.: Labour
3. Prashant Babulal Koli
Age: 29 years, Occu.: Labour,
4. Daulat Mahadu Koli
Age: 66 years, Occu.: Labour,
5. Mahendra Daulat Koli
Age: 30 years, Occu.: Labour,
6. Nilesh Sukdeo Koli
Age: 24 years, Occu.: Labour,

All R/o Nimbhora, Tq. Amalner,
Dist. Jalgaon.

..APPLICANTS

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. V.B. Patil, Advocate for applicants.
Mr. K.N. Lokhande, A.P.P. for respondent - State.
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**CORAM : V.L. ACHLIYA, J.
DATED : 23rd NOVEMBER, 2017**

ORDER :

1. The applicants apprehending arrest in connection with offence u/s 307, 143, 324, 323, 504, 506, 447 of I.P.C. and u/s 37(1)(3) r/w 135 of Mumbai Police Act registered vide C.R. No. 34 of 2017 with Marwad Police Station, Dist. Jalgaon, have filed this application seeking anticipatory bail.
2. Heard the learned Counsel for the applicants and the learned A.P.P. for respondent – State. Perused the papers of investigation.
3. The learned Counsel for the applicant strenuously contended that on the face of F.I.R., no offence u/s 307 of I.P.C. is attracted against the applicants. It is pointed out that in the complaint lodged by the informant, it is specifically mentioned that his son – Rahul Koli has consumed pesticide N.B. 90 in his agricultural field. He got him admitted in the hospital of Dr. Anil Shinde at Amalner and later on to Narmada Foundation Hospital, Amalner. He further submits that on account of previous incident dated 03rd October, 2017, the applicants are falsely implicated in the case. He submits that there is no witness from vicinity to support the allegation that on 08th October, 2017 at 3.30 p.m., the applicants visited the house of informant and gave threat as alleged in the complaint. Only on the basis of statement made by Rahul Koli

who himself consumed insecticide on account of quarrel with his father, the applicants are falsely implicated in the case.

4. On the other hand, the learned A.P.P. submits that pursuant to the complaint lodged by the informant initially offences u/s 143, 324, 323, 504 and 506 of I.P.C. were registered. Subsequently, statement of Rahul Koli – son of the informant was recorded on 10th October, 2017, after he regained consciousness. In the statement recorded he has stated that while he was present in his field, at about 6.30 p.m. the applicants forcibly administered him pesticides. On the basis of statement of witnesses, offence u/s 307 of I.P.C. came to be added during the course of investigation. However, the learned A.P.P. states that during the course of investigation, statement of persons in neighborhood of the informant were recorded. None of them supported the allegations that quarrel had taken place on 08th October, 2017 at 3.30 p.m. outside the house of the informant. On the contrary, they have stated that on 08th October, 2017 at 3 p.m. they heard quarrel going on in the house of the informant in between the informant and his son. They heard Rahul Koli telling his father to transfer the agricultural land in the name of his mother – Ujwalabai. He told him as he consumed liquor, people talks about him and he feels very bad about the same. His father refused to transfer the agricultural land in the name of his mother and asked him to go and end his life by

consuming poison. They further states that they had seen Rahul Koli leaving the house on motorcycle in feet of anger and his father chasing his motorcycle. In the evening they came to know that Rahul Koli has consumed poison in his agricultural land. Besides statements of neighbour, two other persons whose statements were recorded, have stated that they had seen Rahul Koli sitting alone in his agricultural field and no one entered in the field.

5. Thus, considering the overall facts of the case, I am of the view the possibility cannot be ruled out that the applicants being framed in a false case. In the facts and circumstances of the case, the applicants deserve to be granted anticipatory bail. No serious prejudice would cause if the application is allowed as the case of prosecution is entirely rest upon the statement of Rahul Koli. I am therefore inclined to allow the application. Hence following order :-

ORDER

(i) Application is allowed.

(ii) In the event of arrest of the applicants in connection with offence u/s 307, 143, 324, 323, 504, 506, 447 of I.P.C. and u/s 37(1)(3) r/w 135 of Mumbai Police Act registered vide C.R. No. 34 of 2017 with Marwad Police Station, the applicants be released on

bail on each of them furnishing bail in the sum of Rs.25,000/- with one surety in the like amount on the following conditions:-

- (a) The applicants shall appear before the Investigating Officer on 27th November, 2017 between 11 a.m. to 2 p.m. and thereafter as and when directed by the Investigating Officer and cooperate in investigation.
- (b) The applicants shall attend Marwad Police Station on every Sunday in between 11 a.m. to 4 p.m. to record their presence.
- (c) The applicants shall not indulge into the act amounting to tampering the prosecution witnesses and similar in nature.
- (iii) In the event of breach of any of the condition, bail granted to the applicants shall liable to be canceled.
- (iv) Application stands disposed of in above terms.

(V. L. ACHLIYA, J.)

SSD