

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 229 OF 2017

1 Sachin Eknath Vekhande.
2 Arun Chahu Satavi. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Ms. Neesha Mailagir i/b. Mr. Anil D. Joshi, advocate for Applicants.

Mrs. P.P. Shinde, APP for State.

Mr. Manik Sathe, PI, Kalyan Railway Police Station.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : FEBRUARY 7, 2017**

P.C.:

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

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. 31 of 2017 registered at Kalyan Railway Police

Station on 20/1/2017 for offence punishable under Section 306 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 29/12/2016 Smt. Vaishnavi Vishal Khade lodged a report at the police station that her husband Vishal had formed a WhatsApp Group. The present applicants were his friends. Her husband had realised that the present applicant No. 1 was uploading lewd and obscene messages on the whatsapp group and therefore, he had blocked the present applicants in the said group. It is alleged that the applicants herein were enraged by the said act of Vishal. The applicant No. 1 had been to the house of Vishal on 22/12/2016 and had requested the parents of Vishal to give an understanding. He had also threatened of dire consequences.

4 It is further alleged that on 22/12/2016 at about 3 p.m.. the husband of the complainant had called the complainant to Asangaon

railway station. She was then taken by her husband to Washind by local train. They were walking on the railway track and suddenly her husband pushed her aside and had jumped in front of the local train and committed suicide. A.D. No. 398/2016 was registered under section 174 of the Code of Criminal Procedure, 1973. It is further alleged that since applicants were abusing Vishal and threatening him of dire consequences as he had blocked them on whatsapp group, her husband Vishal had committed suicide.

5 Perused the papers of investigation. It appears that on 22nd December itself, the deceased Vishal had typed message on the whatsapp group informing his friends that the present applicants are threatening him of dire consequences. They had abused him as he had deleted them from whatsapp group. He has also tendered apology to the other friends. He had admitted that he was fed up of the abuses hurled by the friends and therefore, he has also abused them.

6 It appears from the record that on 24/12/2016 Vaibhav Khade, brother of the deceased, Vaishnavi Khade as well as father of the deceased had given an application to the police alleging therein that Vishal had committed suicide because of the abuses hurled on him by the present applicants.

7 The learned Counsel for the applicants rightly submits that the relations between the friends were no more cordial as Vishal had deleted them from whatsapp group. It is also submitted that even if the case of the prosecution is taken as it is, the only allegation against the present applicants is that they had abused Vishal on several occasions and had also threatened him. However, it cannot be said that they had abetted, instigated or facilitated the commission of suicide of Vishal, as contemplated under Section 109 of the Indian Penal Code.

8 The learned Counsel for the applicant also submits that although the complainant had given an application on 24/12/2016, the offence was not registered at least till 20/1/2017. There is no explanation as to why the offence was not registered till 20/1/2017.

9 In the facts of this case, custodial interrogation of the applicants would not be imperative. Hence, the applicants deserve grant of pre-arrest bail.

10 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 and shall not be considered at the time of deciding application of quashing of FIR or discharge or at the time of trial.

11 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 31 of 2017, the applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each and one or more sureties in the like amount.
- (iii) The applicants shall report to the concerned police station everyday from 13/2/2017 to 17/2/2017 between 10.30 a.m. to 1 p.m. and cooperate with the investigating officer to the best of their capacity.

12 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)