

Anand

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

ANTICIPATORY BAIL APPLICATION No.597 OF 2017

Tribhuvan Govind Kande .Applicant

Vs.

The State of Maharashtra .Respondent

WITH

ANTICIPATORY BAIL APPLICATION No.598 OF 2017

Chandrakant Ganpatrao Hawale .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Prashant Patil, Advocate, for the Applicant in
ABA No.597 of 2017

Mr.Jaydeep Mane, Advocate, for the Applicant in
ABA No.598 of 2017

Mr.S.S.Pednekar, APP, for the Respondent - State in
ABA No.597 of 2017

Mrs.S.S.Kaushik, APP, for the Respondent - State in
ABA No.598 of 2017

CORAM : REVATI MOHITE DERE, J.

DATE : 06.04.2017

P.C.

. Heard learned counsel for the Applicants and the
learned APPs for the Respondent - State.

2. By these Applications, the Applicants seek pre-arrest
bail in connection with C.R.No.84 of 2017 registered with the

Vairag Police Station, Solapur(Rural), for the alleged offence punishable under Section 306 r/w.34 of the Indian Penal Code.

3. Learned counsel for the Applicants seek bail on the ground of parity. They submit that similarly placed co-accused Bharat Madhukar Gosavi has been granted pre-arrest bail vide Order dated 05.04.2017 by this Court.

4. Learned APP does not dispute the fact, that the allegations against the Applicants are similar to that of co-accused Bharat Gosavi who has been granted pre-arrest bail by this Court. The Applicant-Tribhuvan Kande, at the relevant time was incharge of Branch No.2 of the Irrigation Department, whereas, the Applicant-Chandrakant Hawale was the Sectional Engineer of the Irrigation Department, Sub-division.

5. Perused the papers. The deceased – Guruprasad Mali was working in the Irrigation Department after the death of his father. It was a compassionate appointment. He was appointed sometime in 2012 and was working in the said Department as a Measurement Surveyor from 2012 to 2016 at Barshi, Solapur. It appears that the deceased was transferred to Javalgaon, Barshi

sometime in January, 2017. It is alleged by the complainant, who is the mother of the deceased that her son was not allowed to join the office nor was he paid 2 months salary and was being harassed continuously by the applicants and others from 2012 to 2017, as a result of which the deceased committed suicide. The suicide note written by the deceased, reads thus:-

“पाटबंधारे उपविभाग, बारशी या कार्यालयाकडून माझ्या वडिलांना (कै. एस्. आर.माळी) त्रास झाला, त्यामुळे ते अॅटॅक (वरधक्याने) मृत झाले. मलाही असाच त्रास होता आहे”.

6. In the said suicide note the deceased has disclosed the names of the persons responsible for the harassment i. e. Mr. Bharat Gosavi, Mr. Havale, Mr. R.S.Kulkarni and Mr. Kande. The nature of harassment has not been spelt out in the suicide note. The allegation of the complainant and the deceased's sister is that the applicants and the others were harassing the deceased, and were not paying his salary, as a result of which he was under tension. It is also stated that because of the harassment he had tendered his resignation, however in February, 2016, he had again joined the office. The complainant

has stated that again in January 2017 the deceased tendered his resignation as he was not allowed to report and as 2 month's salary was not paid to the deceased.

7. Although, the incident is indeed very unfortunate, however, prima-facie, it is doubtful whether an offence under Section 306 r/w 34 of the Indian Penal Code is made out in the facts of this case. Custodial interrogation of the applicants is not required. Accordingly, the application is allowed and the applicants are granted pre-arrest bail on the following terms and conditions :-

O R D E R

- (i) In the event, the applicants be enlarged on bail, on executing PR Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall report to the investigating officer of the concerned police station as & when called for;
- (iii) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicants shall co-operate with the investigating agency.

8. The Applications are allowed in the aforesaid terms and are accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding these Applications.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)