

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

ANTICIPATORY BAIL APPLICATION NO. 1957 OF 2018

Uttam Devappa KambleApplicant

V/s.

The State of MaharashtraRespondent

Mr. Vishal L. Kolekar for the applicant.

Mr. Rajan Salvi, APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 25th SEPTEMBER, 2018.**

P.C.:

. Heard Mr. Vishal L. Kolekar, learned counsel for the applicant and Mr. Rajan Salvi, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

2. This is an application for anticipatory bail under section 438 of Criminal Procedure Code, filed by the aforesaid applicant, apprehending his arrest in C.R.No.126/2018 registered with Kagal Police Station, District Kolhapur for offences punishable under sections 306, 384, 506 r/w. 34 of the Indian Penal Code.

3. The records *prima facie* reveals that one Vishnu Dadu More was the head master of Vidya Mandir Vandur, Zilla Parishad School. It is alleged that in the year 2017, work of construction of toilet of the said school was undertaken by the contractor. It was alleged that the construction work was of poor quality and that the applicant and some others held the deceased responsible for poor quality construction of toilet. Said Vishnu More committed suicide on 18/08/2018. Sunita Vishnu More, the widow of said Vishnu More lodged the first information report on 19/08/2018 alleging that Vishnu More had committed suicide because of constant harassment by the applicant and others over the construction of the said toilet. It is also alleged that the applicant and others had demanded Rs.1 lakh for settling the matter and also threatened to defame him by publishing news in local newspaper and also by filing the case under the Atrocities Act.

4. At the outset, it may be mentioned that section 107 of the Indian Penal Code which defines 'Abetment' reads thus :-

“ 107. Abetment of a thing.—A person abets the doing of a thing, who—

(First) — Instigates any person to do that thing; or

(Secondly) —Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes

place in pursuance of that conspiracy, and in order to the doing of that thing; or

(Thirdly) — Intentionally aids, by any act or illegal omission, the doing of that thing. ”

5. In the present case, the allegations made in the first information report do not *prima facie* indicate that the applicant had instigated, enticed or provoked said Vishnu More to commit suicide or that he had intentionally aided or facilitated suicide. The applicant is a permanent resident of village Vandur, Taluka Kagal and there are no chances of the applicant absconding and/or thwarting the course of justice. Though the learned Judge has held that the applicant has criminal antecedents, Mr. Vishal Kolekar, learned counsel for the applicant has placed on record copy of the judgment dated 29/05/2015 passed by the Assistant Sessions Judge, Kolhapur in Sessions Case No.95/2013 wherein accused no.22 has already been acquitted.

6. Considering the above facts and circumstances and particularly the nature of the allegations levelled against the applicant, in my considered view, the case does not justify custodial interrogation. Hence, the Anticipatory Bail Application is allowed on following terms and conditions :-

(a) In the event of arrest of the applicant in C.R.No.126/2018, he

shall be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(b) The applicant shall remain present before the Investigation Officer from 01/10/2018 for a period of four days from 11:00 a.m. to 02:00 p.m. and further as and when required by the Investigation Officer for the purpose of interrogation/investigation.

(c) The applicant shall furnish his permanent and temporary address, if any, and his contact details to the Investigation Officer.

(d) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

(e) The applicant shall not interfere with the witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)