

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Anticipatory Bail Application NO. 2098 OF 2019

Jahangir Mahamadhanif Shaikh	...Applicant
<i>Versus</i>	
The State Of Maharashtra	...Respondent

WITH
Criminal Anticipatory Bail Application NO. 2100 OF 2019

Ashpan Jahangir Shaikh	...Applicant
<i>Versus</i>	
The State Of Maharashtra	...Respondent

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Mr. Shriram S. Chaudhari, Advocate for the Applicants in both ABAs.
Mr. Prashant Jadhav, APP, for the Respondent-State in ABA/2098/2019.
Smt. A.A. Takalkar, APP, for the Respondent-State in ABA/2100/2019.
Mr. Sachin Vasmale, PSI, Pandharpur Taluka Police Station is present in Court.

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CORAM : SARANG V. KOTWAL, J.

DATE : 26th SEPTEMBER, 2019

PC.

1. Both these anticipatory bail applications are being disposed of by this common order because they arise out of the same offence.

2. The FIR is lodged on 2.9.2019 at Pandharpur Taluka Police Station vide C.R. No.513/2019 under Section 306 read with 34 of I.P.C.
3. The applicants are apprehending their arrest in connection with this offence.
4. The FIR is lodged by one Saif Ali Nurahmed Shaikh, son of the deceased Noor Ahmed Shaikh about death of his father. Applicant in ABA No.2098/2019, Jahangir Mahamadhanif Shaikh, is the brother of the deceased and the applicant in ABA No.2100/2019, Ashpan Jahangir Shaikh, is the nephew of the deceased.
5. It is mentioned in the FIR that the informant's father and uncles had a joint ancestral property in Gat No.121, 125 and 128 in village Degaon admeasuring about 16 Acres. It was alleged that the victim's uncle and his grand-father by using some sweet talks gave the land to Irfan Shaikh and the applicant Ashpan Shaikh. However, the possession was retained by the victim's family. Thereafter the applicant Jahangir Shaikh filed a Civil Suit in

the Court of Civil Judge at Pandharpur for possession. Since then the applicants' family was allegedly harassing the informant's family and were obstructing the informants' family from enjoyment of their separate property. Because of such harassment, the informant's family was unable to cultivate their separate share of 2 Acres of land. In the meantime, the case was decided in favour of the applicant Jahangir. The victim's family gave applicants' family 2 Acres of land out of total 4 Acres of their share. It is alleged in the FIR that the applicants' family was not allowing the victim's family to cultivate in the remaining land admeasuring 2 Acres. The deceased was depressed because of all this. The informant's family had filed an appeal in the District Court against the order of Civil Judge at Pandharpur. It is alleged that on 14.8.2019, the applicants' family assaulted the deceased with kick and fist blows and threatened him. On 16.8.2019 Noor Ahmed i.e. father of the informant committed suicide by hanging himself on a tree.

6. I have heard Shri Shriram Chaudhari, learned Counsel for the applicants, Shri Prashant Jadhav, learned A.P.P. for the State in ABA No.2098/2019 and Smt. A.A. Takalkar, learned A.P.P. for the

State in ABA No.2100/2019.

7. Learned Counsel for the applicants submitted that the applicants' family had won the civil case and the appeal was pending and, therefore, there was no reason for them to harass the victim's family. Learned Counsel for the applicants relied on the common order dated 23.9.2019 passed by this Court in ABA Nos.2056/2019 & 2057/2019. By this order, the accused Shainaj Shaikh, Arshiya Shaikh and Irfan Shaik were granted protection of anticipatory bail.

8. Learned A.P.P. Smt. Takalkar relied on the statements and the FIR.

9. I have considered all these submissions. The allegations in the FIR show that there was a Civil dispute pending between the two branches of the family i.e. between the victim's and the applicants' family. The applicant Jahangir had filed Civil Suit and had won it. The victim's family had filed an appeal before the District Court. Therefore, it is clear that both the branches were taking recourse to proper legal remedies. In the meantime, this

unfortunate incident had occurred. Though there are allegations that on 14.8.2019, the deceased was assaulted by the applicants' family, no such complaint was made to the Police Station and not even an N.C. was lodged in this behalf. These allegations are made for the first time after commission of suicide by the deceased.

10. There is considerable force in the submission of learned Counsel for the applicants that the applicants deserve to be granted same protection on the ground of parity as those of other accused who are granted similar protection and who are similarly placed.

11. Considering this submission and the background as also pending longstanding civil dispute, the custodial interrogation of the applicants is not justified. Therefore, I am inclined to grant protection of anticipatory bail to the applicants. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with
C.R. No.513/2019 registered at Pandharpur

Taluka Police Station, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.

- (ii) The applicants shall attend the concerned police station as and when called.
- (iii) Both the Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)