

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.855 OF 2020

- 1) Ankush s/o Babasaheb Jamadar,
Age 30 years, Occupation Labour,
R/o Nanegaon Tq. Paithan
Dist. Aurangabad.
- 2) Vijay @ Jeejasaheb s/o Babasaheb Jamadar,
Age 36 years, Occupation Labour,
R/o Nanegaon Tq. Paithan
Dist. Aurangabad.

...Applicants

VERSUS

- 1) The State of Maharashtra.
- 2) The Superintendent of Police,
Through Police Inspector,
Pachod Police Station Tq.Paithan.

...Respondents

Advocate for Applicants : Mr. Chaudhari Nitin K.
APP for Respondents-State : Ms. R. P. Gour.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 09-12-2020.

ORDER :

1. Present applicants are the accused persons who are apprehending their arrest in connection with Crime No.278 of 2020, dated 27-08-2020, registered with Pachod Police Station Tq. Paithan Dist. Aurangabad, for the offence punishable under Section 306, 323 read with 34 of the IPC,

hence they are praying for bail under Section 438 of CrPC.

2. Heard learned Advocate Mr. N. K. Choudhari for applicants and learned APP Ms. R. P. Gour for respondents-State. In order to cut short it can be stated that both of them have made submissions supporting their respective contentions.

3. Information has been lodged by one Maroti Pandharinath Jamadar who is the father of the deceased. Present applicants are distantly related to the informant. It is stated that the son of the informant and present applicants as well as his two brothers used to be with each other together many times. There was dispute at about 08.00 p.m. on 25-08-2020 between the accused persons and deceased on some trifle ground, and at that time deceased Bandu was assaulted by the accused persons by slap and fists. Informant intervened and without giving any complaint with the police, he had settled the dispute. The informant further says that on the next day at about 07.30 p.m., when he was proceeding in front of Zilla Parishad School, present applicants picked up quarrel with Bandu and again he was assaulted on the count of dispute earlier night. Even at that time also the informant intervened, asked his son to go home. Thereafter, the informant says that after dinner, when he went to his cousin brother's house at about 10.00 p.m., at that time his wife and son Bandu were at

home. Around 11.30 p.m. wife of informant came to the place where the informant was and disclosed that Bandu is trying to commit suicide and he has latched the door. Informant went home immediately. He along with a neighbour had forcibly opened the latch of the house and found that his son has hanged himself with a help of a sari to ceiling fan. Informant's wife disclosed that even prior to that there was attempt by Bandu to hang himself but at that time she and the neighbour had persuaded him. Bandu promised that he would not do anything and remained inside the house. She went to talk to the neighbouring ladies and at that time Bandu latched the door of the house and committed suicide. Informant contends that the said action has been taken by Bandu due to the harassment by the present applicants.

4. Thus, after taking account of the contents of the FIR, it can be seen that prior to 08.00 p.m. of 25-08-2020 the relationship between the parties appear to be normal. The dispute that had allegedly taken place at 08.00 p.m., was trifle in nature. The incident that had taken place on the next day i.e. after about 24 hours, was also on the count of that alleged trifle incident, and it was only alleging that the present applicant No.1 had thrown Bandu on the ground with force by lifting him. Merely these two incidents cannot amount to abetment by any

stretch of imagination. Though we are at a very *prima facie* stage, yet taking into consideration the contents of the FIR, that is the only conclusion that can be drawn.

5. The grounds which have been raised by the Investigating Officer opposing the application, are very much general in nature. Perusal of the post-mortem report would show the final cause of death as, "Asphyxia due to Hanging". Under such circumstance, the custody of the applicants is not at all required for the purpose of investigation, and therefore, the application deserves to be allowed. This Court by order dated 22-10-2020 had granted interim relief to the applicants, and therefore, it deserves to be confirmed and absolute. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) The order passed by learned Additional Sessions Judge, Aurangabad, in Bail Petition No.1271 of 2020 dated 15-09-2020, is hereby set aside. Said application stand allowed.
- 3) The ad-interim protection, granted by this Court earlier to applicants vide order dated 22-10-2020 is hereby confirmed and made absolute.

- 4) In the alternative if the applicants are not formally arrested, in the event of arrest of applicants, in connection with Crime No.278 of 2020, registered with Pachod Police Station Dist. Aurangabad, for the offences punishable under Section 306, 323 r.w. 34 of the Indian Penal Code, they be released on PR and SB of Rs.15,000/- (fifteen thousand).
- 5) The applicants shall not tamper with the evidence of the prosecution in any manner.
- 6) They shall not indulge in any criminal activity.
- 7) They shall co-operate with the investigation.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.