

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**934 ANTICIPATORY BAIL APPLICATION NO.900 OF 2020**

Datta S/o Bapurao Waghmare  
Age : 48 years, Occ : Driver,  
R/o Gat No.33/1, Plot No.133,  
Malhar Nagar, Garkheda Parisar,  
Near Mukundwadi Railway Station,  
Aurangabad, Tq. & Dist. Aurangabad.

..APPLICANT

-VERSUS-

The State of Maharashtra  
Through Police Inspector  
City Chowk Police Station,  
Tq. & Dist. Aurangabad.

..RESPONDENT

**WITH**

**ANTICIPATORY BAIL APPLICATION NO.914 OF 2020**

Datta S/o Bapurao Waghmare  
Age : 48 years, Occ : Driver,  
R/o Gat No.33/1, Plot No.133,  
Malhar Nagar, Garkheda Parisar,  
Near Mukundwadi Railway Station,  
Aurangabad, Tq. & Dist. Aurangabad.

..APPLICANT

-VERSUS-

The State of Maharashtra  
Through Police Inspector  
City Chowk Police Station,  
Tq. & Dist. Aurangabad.

..RESPONDENT

...

Mr.S.G. Chapalgaonkar, Advocate for the  
applicant.

Mr.S.Y. Mahajan, APP for respondent/State

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**CORAM : V.L.ACHLIYA,J.**  
**DATE : 02.12.2020**

**ORAL ORDER :**

. On an apprehension of arrest in

connection with the offence registered U/s. 306, 506 r/w 34 of the Indian Penal Code (IPC), vide C.R. No.0495/2020 with City Chowk Police Station, Aurangabad, the applicant has preferred these applications seeking pre-arrest bail on the grounds set out in detail in the applications.

2. Heard learned counsel for the applicant and learned APP representing the respondent-State. Perused first information report and the order passed by the learned Additional Sessions Judge.

3. At the outset learned counsel for the applicant submits that both these applications are filed by the present applicant seeking pre-arrest bail arising out of the same crime. The applications sent through e-mail have been separately registered and numbered as A.B.A. No.900/2020 and A.B.A. No.914/2020 by the office. The applicant is therefore not pressing A.B.A. No.914/2020 and urge to dispose of the same as not pressed. Accordingly, A.B.A. No.914/2020 is disposed of as not pressed.

4. By referring to the overall facts of

the case and the specific allegations made against the applicant in the first information report, learned counsel for the applicant submits that the allegations made in the complaint itself make out no case to prosecute the applicant for committing specific offence punishable U/Sec. 306, 506 r/w sec. 34 of IPC. It is submitted that the applicant is distant relative of the wife of the deceased, who allegedly committed suicide on 12.09.2020 on account of matrimonial discord and strained relationship with his wife. It is submitted that in the suicide note alleged to have left behind by the deceased, the deceased has stated that he was committing suicide due to mental harassment caused to him by the persons named in the complaint and refusal to pay the amount of Rs.5 Lakhs given to them.

5. It is submitted that in order to constitute the offence U/Sec. 306 of IPC, there must be an act of abetment as defined U/Sec. 107 of the Indian Penal Code. There must be an intentional act on the part of the accused to drive the deceased to commit suicide In this background, learned counsel submits that even if the allegations made in

the first information report are taken at its face value and accepted in its entirety, still it make out no case to attract offence U/Sec. 306 of IPC. On the basis of the false and frivolous complaint lodged implicating the applicant who is distant relative of the wife of the deceased, there is every likelihood that the applicant may be arrested, humiliated and harassed for no offence committed on his part.

6. On the other hand, learned APP opposed the application with contention that the name of the applicant is mentioned in the suicide note left behind by the deceased. It is submitted that in the complaint filed, it is mentioned that deceased was illtreated and harassed by his wife and other accused and the amount of Rs.5 Lakhs taken from him was also not returned by the accused persons and due to said reasons, the deceased was committing suicide. In this background, learned APP submits that the applicant and co-accused have created such circumstance whereby the deceased was left with no alternative but to commit suicide. In that view, prima facie case exist to attract offence U/Sec. 306 of IPC against the

applicant and urged to reject the application.

7. I have carefully considered the submissions advanced. In the light of overall facts of the case and role attributed to the applicant in commission of offence I am of the considered view, the applicant has made out a case to extend protection U/Sec. 438 of Cr.P.C.

8. It is well settled position in law that in order to attract the offence U/Sec. 306 of IPC, there must be an act of abetment as defined U/Sec. 107 of IPC. There must be an intentional act on the part of the accused of aiding and abetting the deceased to commit suicide. The act of committing suicide under frustration or loss of mental peace or balance due to matrimonial discord or any other reason itself not sufficient to infer that the deceased was abetted to commit suicide. The act of mental and physical harassment without any intention to abet the commission of suicide not sufficient to attract the offence U/Sec. 306 of IPC.

9. In the instant case, the complaint

in respect of incident leading to registration of aforesaid offences came to be lodged by the mother of the deceased after three days of the incident. On 12.09.2020, the deceased found to have committed suicide in his house. On 15.09.2020, the informant Harnabai Deelip Jadhav, mother of the deceased lodged the complaint alleging therein that her deceased son got married with Pooja – accused no.1 about one and half years prior to the incident. After the marriage, she came to her matrimonial house to cohabit with her deceased husband. During her stay, one Subham Borade used to visit her house. On account of visit of Subham Borade, there used to be frequent quarrel amongst the deceased and her wife – Pooja the accused no.1. The accused no.1 used to always telling that her husband not sleeping with her and he was impotent. About 6-7 months prior to incident, the wife of deceased i.e. accused no.1 had left her matrimonial house and residing at her parental house. The attempt made to fetch her back resulted in vain. Therefore, few days prior to the incident, the notice was also given to his wife and she was called upon to resume cohabitation. On 12.09.2020, the deceased came to house and

disclosed her that he has given Rs.5 Lakhs to his in-laws for purchasing the house and they are not returning that amount. He further told her that her wife always insult him tell the people that he is impotent. He therefore lost interest in life and feel that he should commit suicide. She tried to convince her son to give up the thought of committing suicide. However, deceased committed suicide by hanging himself in the room. During search, the Police have found one letter written in the handwriting of her son in which he has named his wife and other relatives as persons responsible to commit suicide.

10. Thus, if we consider the first information report in its entirety, it make out no case to connect the applicant with offence U/Sec. 306 of IPC. The applicant is not closely related with the deceased and accused no.1. He claimed to be distant relative of the accused no.1. He was neither residing in the house of informant or house of accused no.1 or connected with day today life of deceased and his wife as well as dispute between the deceased and accused no.1. So also the amount of Rs. 5 Lakhs was not claimed to be paid to him. The amount

alleged to have been paid to the in-laws of the deceased i.e. family of accused no.1 and co-accused in the case. In that view, it is difficult to believe that the applicant has abetted the deceased to commit suicide. The investigation of the case is practically over. In the facts and circumstances of the case, the custodial interrogation of the applicant is not necessary. Grant of anticipatory bail to the applicant would not hamper on-going investigation. On the contrary, if the protection is not granted to the applicant, there is every likelihood that applicant may be arrested, humiliated and harassed. I am therefore inclined to allow the application.

11. Accordingly, the application is allowed. The interim bail granted vide order dated 27.10.2020 is continued and made absolute on the same terms and conditions with further condition that the applicant shall co-operate in the investigation and appear before the Investigating Officer as and when directed by the Investigating Officer. He shall not indulge into any act amounting to pressurizing or tampering of the prosecution witnesses.

12. It is clarified that the observations made in the order are prima facie observations made for the limited purpose of deciding the present application. None of the observations made in the order to be treated as observations made as to merit of case of prosecution against the applicant.

13. The application is disposed of in above terms.

**[V.L.ACHLIYA]**  
**JUDGE**

SGA