

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1121 OF 2020

Valmik s/o Suka Khurne ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. S.B. Solanke, Advocate for applicant.
Mr. S. Y. Mahajan, APP for respondent – State.

.....
WITH
CRIMINAL APPLICATION NO.2156 OF 2020
IN ABA/1121/2020

Sudam Raghu Dude ... Applicant
Versus
Walmik Suka Khurne and another ... Respondents

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Mrs. S. T. Kazi, Advocate for applicant – original informant.
Mr. S.B. Solanke, Advocate for respondent No.1.
Mr. S. Y. Mahajan, APP for respondent No.2 – State.

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WITH
ANTICIPATORY BAIL APPLICATION NO.1123 OF 2020

Rushikesh s/o Bapu Khurne ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. S.B. Solanke, Advocate for applicant.
Mr. S. Y. Mahajan, APP for respondent – State.

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WITH
CRIMINAL APPLICATION NO.2157 OF 2020
IN ABA/1123/2020

Sudam Raghu Dude ... Applicant
Versus
Rushikesh Bapu Khurne and another ... Respondents

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Mrs. S. T. Kazi, Advocate for applicant – original informant.
Mr. S.B. Solanke, Advocate for respondent No.1.
Mr. S. Y. Mahajan, APP for respondent No.2 – State.

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WITH
ANTICIPATORY BAIL APPLICATION NO.1124 OF 2020

1.	Dnyaneshwar Valmik Khurne	
2.	Sopan Valmik Khurne	
3.	Anna Sukdev Khurne	
4.	Prabhakar Aanna Khurne	... Applicants
	Versus	
	The State of Maharashtra	... Respondent

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Mr. S.B. Solanke, Advocate for applicants.
Mr. S. Y. Mahajan, APP for respondent – State.

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WITH
CRIMINAL APPLICATION NO.2158 OF 2020
IN ABA/1124/2020

Sudam Raghu Dude	... Applicant
Versus	
Dnyaneshwar Walmik Khurne and others	... Respondents

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Mrs. S. T. Kazi, Advocate for applicant – original informant.
Mr. S.B. Solanke, Advocate for respondent No.1 to 3.
Mr. S. Y. Mahajan, APP for respondent No.2 – State.

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CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 17-12-2020

COMMON ORDER :

. Criminal Application Nos. 2156 of 2020, 2157 of 2020 and 2158 of 2020 filed by the original informant seeking permission to assist learned

Additional Public Prosecutor in respective anticipatory bail applications are hereby allowed and disposed of.

2. Anticipatory Bail Application Nos.1121 of 2020, 1123 of 2020 and 1124 of 2020 have been filed by all the accused persons under Section 438 of the Code of Criminal Procedure for getting bail, as they are apprehending their arrest in connection with Crime No.599 of 2020 registered with Dhule Taluka Police Station, District Dhule for the offences punishable under Sections 306 and 506 of Indian Penal Code.

3. Heard learned Advocate Mr. S. B. Solanke for applicants - accused in respective applications, learned APP Mr. S. Y. Mahajan for respondent – State assisted by learned Advocate Mrs. S. T. Kazi for original informant in respective applications.

4. It has been vehemently submitted on behalf of the applicants seeking anticipatory bail that the incident of suicide is alleged to have committed on 29-10-2020. The informant himself had lodged accidental death report with Dhule Taluka Police Station vide A.D. No.120 of 2020 on 30-10-2020, yet, on that day, he did not lodge the report, but the FIR has been lodged on 31-10-2020 which is belated and there is absolutely no explanation for the same. There is room to believe that it is an afterthought act. It has been further submitted that the FIR makes a mention about certain offence that was registered against the

deceased on 15-05-2019. However, thereafter, there appears to be no interaction which was reported to the police. The informant says that since 15-05-2019 all the applicants used to give threat to the deceased by saying that how he would appear for the exam for recruitment of police and they would see how he gets job. They would file many offences against him and he would be made to sit in jail. Informant further says that on 20-10-2020, at about 6.00 p.m., deceased Prakash again informed to the informant who is his father and other family members that the present applicants are giving him threats which is causing him mental harassment and he would feel to commit suicide. Thereafter, the informant had persuaded him, but the suicide is stated to have committed on 29-10-2020. No such incident between 20-10-2020 to 29-10-2020 has been stated, which would show nexus between the death and act of the present applicants. Custodial interrogation of the applicants is not necessary.

5. Per contra, learned APP well assisted by learned Advocate Mrs. S. T. Kazi representing original informant vehemently submitted that the custodial interrogation of the applicants is necessary. They were unnecessarily harassing the deceased, who was a bright student and wanted to join the police force. He was preparing himself for the examinations, but as the threat was given that these persons would lodge report against him and would make him to sit in jail, he had a fear in mind that he will not get the job. The mental harassment was to such an extent which amounted to abetment and, therefore, it resulted in his

suicide.

6. Since the substantial story in the FIR has already stated, there is no necessity to repeat it. It is not necessary to take note of the fact that there is delay in lodging the report, as the said fact can be explained though the fact is apparent.

7. As per the FIR, it is stated that brother-in-law of the informant had lodged a report against some of the applicants on 03-05-2019 with Dhule Taluka Police Station. Thereafter, on 15-05-2019, an offence was registered by the applicant – Rushikesh Khurne against deceased Prakash and other relatives of the present informant falsely contending that there was some dispute. It has been then contended that since then, that means after lodging these two first information reports, present applicants were harassing Prakash and giving him threat to lodge report against him, so that he should not get a recruitment in police force. It appears that Prakash himself has not lodged any report with police in respect of any of the alleged incidences. The informant then says that Prakash has disclosed him on 20-10-2020 about the threat given by the present applicants and his feelings at that time, that he wants to end the life. The informant says that he had persuaded his son, but it appears that he did not take the fact seriously, Thereafter, the informant lodged a report against the present applicants. After Prakash has committed suicide, now he wants to try to link

those things together, still what had happened between 20-10-2020 to 29-10-2020 has not been stated by him. Immediate action or immediate instigation or abetment, which would lead for the suicide of the deceased, would be a basic criteria to attract the offence under Section 306 of the Indian Penal Code. Now, taking into consideration the fact that the deceased had committed suicide and the panchanama has already been drawn, there is no question of recovery at the hands of the present applicants and, therefore, their custodial interrogation is not necessary making them available for investigation would suffice. Hence, the following order :-

ORDER

- I) All the applications stand allowed.
- II) The orders passed by learned Additional Sessions Judge, Dhule in respective Criminal Bail Application Nos.984 of 2020, 983 of 2020 and 985 of 2020 dated 12-11-2020 are hereby set aside. The said applications stand allowed.
- III) In the event of arrest of the applicants in respective anticipatory bail applications in connection with Crime No.599 of 2020 registered with Dhule Taluka Police Station, District Dhule for the offences punishable under Sections 306 and 506 of Indian Penal Code, they be released on P.R. and S.B. of Rs.15,000/- each.

- IV) The applicants in respective anticipatory bail applications shall remain present before the Investigating Officer on every Monday and Thursday between 10.00 a.m. to 01.00 p.m. till 28-02-2020 or filing of charge-sheet, whichever is earlier.
- V) They shall not tamper with the evidence of the prosecution in any manner and shall cooperate with the investigation.
- VI) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm