

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 184 OF 2021

1. Babasaheb s/o Bapurao Kamble,
Age : 40 years, occu. Service,
R/o Pimpri, Tq. Gangakhed,
District Parbhani
2. Limbaji s/o Kabaji @ Kabir Bhise,
Age : 55 years, Occu. Agri.,
R/o Pimpri, Tq. Gangakhed,
District Parbhani

APPLICANTS

VERSUS

The State of Maharashtra,
through Police Station,
Gangakhed, Dist. Parbhani

RESPONDENT

AND

ANTICIPATORY BAIL APPLICATION NO. 185 OF 2021

Aadesh s/o Ajay Rudrawar,
Age : 22 years, Occu. Education,
R/o Sarafa Market, Bhagwati Chowk,
Gangakhed , Tq. Gangakhed,
District Parbhani, at present
Chacha Nehru Balgruha,
Near Lalbahadur Shastri School,
Captain Chowk, Degloor Road,
Udgir, Tq. Udgir, District Latur

APPLICANT

VERSUS

The State of Maharashtra,
through Police Station,
Gangakhed, Dist. Parbhani

RESPONDENT

Mr. S.J. Salunke, Advocate for the applicants
Mr. S.W. Mundhe, A.P.P for the respondent/State
Mr. P.V. Khiste, Advocate to assist the A.P.P.

CORAM : MANGESH S. PATIL, J.

DATE : 07.04.2021

PER COURT :

These are separate applications by three different accused from Crime No.47 of 2021, registered with Gangakhed Police Station, District Parbhani for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, seeking bail under Section 438 of the Code of Criminal Procedure in the event of their arrest.

2. The FIR has been lodged by the son of the deceased who committed suicide by leaving behind couple of suicide notes attributing the cause of suicide to the present applicants. It is alleged that because of the dispute touching a land, the applicants – Babasaheb and Limbaji were persistently harassing him. It is also alleged that he was indebted and the money lender was insisting for payment of more money. It is being alleged that it is the applicant – Aadesh and his brother had lent him money and were persistently insisting for more money inspite of repayment of the loan and triggered his suicide.

3. Mr. S.J. Salunke, learned Advocate for the applicants in both the

applications would argue that the applicants are being falsely implicated on mere suspicion. No offence of abetment as defined under Section 107 of the Indian Penal Code can be made out even if the allegations are taken to be true at their face value.

4. The learned Advocate would submit that though previously some crime was registered by the deceased against applicant Babasaheb, it was in the year 2013 and for a long period of seven years, there was no dispute between the two sides so that the deceased could have been harassed by the applicants Babasaheb and Limbaji.

5. As far as the applicant Aadesh and accused Vaibhav are concerned, Mr. Salunke, learned Advocate points out that both of them are students. In fact, Vaibhav is even a juvenile in conflict with law. It is unlikely that they could have lend money to the deceased and could have harassed him for repayment. Considering all the above mentioned facts and circumstances and even the suicide notes attributing the applicants with some acts, those cannot be taken as 'instigation' so as to constitute 'abetment'. The applicants are ready to cooperate the Investigating Officer. There are no criminal antecedents except the FIR lodged against applicant Babasaheb seven years back. The applicants would be put to disrepute if they are sent to custody. The applicants, therefore, be granted anticipatory bail.

6. The learned A.P.P, assisted by the learned Advocate for the original informant, submits that at this juncture, reference to the contents of the suicide notes is sufficient to prima facie draw an inference regarding involvement of the applicants in commission of the crime. The deceased himself has attributed them having disturbed his mental peace by persistently threatening him on account of land dispute and demanding more money inspite of repayment of the loan amount.

7. The learned A.P.P. would submit that apart from the contents of the suicide notes, the statements of the witnesses further corroborate such an inference. There is a statement of the brother of the deceased, as also one Akshay Bhaskar Bhise, who is an independent witness. The statements of these witnesses clearly corroborate the contents of the suicide notes. The learned A.P.P, therefore, submits that custodial interrogation of all the applicants is highly imperative to complete the investigation on the lines of the allegations made in the suicide notes and the applications be rejected.

8. I have carefully gone through the papers of investigation and particularly the suicide notes and the statements of the witnesses. Since we are at a nascent stage of investigation, threadbare scrutiny of the material collected by the Investigating Officer is not expected.

9. At this juncture, it is enough to note that there are couple of suicide notes. Though the contents thereof are not coherent enough, those

are sufficient, prima facie, to attribute the applicants of harassing the deceased persistently. The deceased indeed having specifically mentioned about such persistent harassment having triggered his suicide, at this juncture, no further scrutiny would be necessary.

10. Besides, the statement of the brother of the deceased and that of one Akshay Bhaskar Bhise further corroborate the fact regarding harassment meted out to the deceased by the applicants, firstly on account of land dispute and, secondly, regarding money lending transaction.

11. If such is the state-of-affair, custodial interrogation of the applicants would certainly be necessary to complete the investigation on the lines and in respect of the allegations being levelled in the suicide notes.

12. Both the applications are rejected.

[MANGESH S. PATIL]
JUDGE

npj/ABA184-185-2021

