

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

ANTICIPATORY BAIL APPLICATION NO. 230 OF 2021

- 1) Shankar Pandu Sanap,
Age 51 years, Occ. Agriculturist.
- 2) Vilas Shankar Sanap,
Age 21 years, Occ. Agriculturist.
- 3) Amol Shankar Sanap,
Age 26 years, Occ. Agriculturist.
- 4) Bhaiyya Balkisan Nagre,
Age 39 years, Occ. Agriculturist.

All r/o. At post Hatgaon,
TQ. Chalisgaon, Dist. Jalgaon.

... **Applicants.**

VERSUS

The State of Maharashtra,
Through Investigating Officer,
Chalisgaon Rural Police Station,
Tq. Chalisgaon, District Jalgaon.

... **Respondent.**

...

Advocate for the Applicants : Mr. Ranjeet V. Sangale, h/f Mr. Sushant V.
Dixit.

APP for the Respondent/State : Mr. S.P. Sonpawale.

CORAM : MANGESH S. PATIL, J.

DATE : 09.04.2021.

PER COURT :

Apprehending their arrest in connection with Crime No. 176/2021, registered with Chalisgaon (Rural) Police Station, District Jalgaon for the offences punishable under Section 306, 506, 506, read with Section 34 of the Indian Penal Code, the applicants are seeking bail in the event of their arrest.

2. It is being alleged that the mother of the informant and the deceased had contested the Grampanchayat election but was defeated. The applicants who happen to be their relatives staying opposite to their residence had taunted and teased and even threatened to kill the deceased. Because of such insult or harassment meted out to him he committed suicide by uploading an audio clip specifically attributing the cause of the suicide to the applicants. The F.I.R. was lodged and the offence was registered.

3. The learned advocate Mr. Sangale h/f Mr. Dixit for the applicants would vehemently submit that accepting the allegations at its face value, all the necessary ingredients for constituting abetment within the meaning of Section 107 of the Indian Penal Code cannot be made out. Accepting the version of the prosecution about the deceased having been threatened by holding his collar by the applicant No. 1 and assuming that there was some exchange of words in the morning of the suicide, the applicants cannot be attributed with necessary *mens rea* to instigate the deceased to commit suicide. The learned advocate would *inter alia* cite the decision in the case of Rahul Raj Singh Vs. The State of Maharashtra in Anticipatory Bail Application No. 861 of 2016 dated 25th April, 2016.

4. The learned advocate Mr. Sangale would then submit that even otherwise taking into account the nature of the allegations, the investigation can proceed without resorting to custodial interrogation of the applicants since nothing is to be discovered by or recovered from them. The applicants are ready to cooperate the Investigating Officer. They have already been protected by way of ad interim relief. It is only for a period of one week during which the matter could not be listed that the ad interim relief was not continued and since the applicants were not protected they did not attend the concerned police station from 24.03.2021 to 03.04.2021. He would further submit that after getting extension of the ad interim relief with effect from 03.04.2021, they were supposed to attend the police station but because of the curfew imposed in view of the pandemic they could not

do so but have punctually attended the concerned police station as per the terms and conditions imposed subject to which the interim relief was granted since 04.04.2021 onwards. They have also been subjected to interrogation. Their statements have also been recorded. He would therefore submit that ad interim relief be confirmed with the suitable conditions.

5. The learned A.P.P. assisted by the learned advocate for the original informant strongly opposes the application. He submits that at his juncture the perception that was being entertained by the deceased only needs to be looked into. He has specifically attributed the cause of suicide to the conduct of the applicants. It would be a matter of investigation to find out corroboration to such perception. Consequently, custodial interrogation of applicants is necessary.

6. The learned A.P.P. would further submit that the applicants are not diligent enough in attending the concerned police station pursuant to the condition imposed while granting them ad interim relief. There is no plausible explanation coming forth as to why in spite of the order extending ad interim relief beyond 27.03.2021 they did not attend the concerned police station till 04.04.2021. This conduct needs to be looked into particularly in the light of the three non-cognizable reports registered against them one of which is by a witness who was threatened by some of the applicants. This conduct on the part of the applicants is sufficient to disentitle them from seeking discretionary relief of anticipatory bail and the application be rejected.

7. I have carefully gone through the papers of investigation including the transcript of the video clip uploaded by the deceased on the group as well as his audio clip. A perusal of the contents of that video clip which can be found in the description in the panchnama would reveal that it was containing a scene wherein the applicant No. 1 and the father of the

deceased had indulged in some quarrel. It would be noticed that during that quarrel between the two, the applicant No. 1 was inter alia questioning the father of the informant as to if he had arranged the programme just because he (father) was defeated. Beyond that nothing could be found much less to point out that something was said to the deceased or pertaining to him. It was his mother who was the contesting candidate who was defeated and the quarrel was between the applicant No. 1 and the father of the deceased. In fact, the deceased himself has video graphed the incident and had uploaded it on the group. Assuming that such was the state of affairs as can be depicted in this video one cannot comprehend as to how this would constitute instigation within the meaning of Section 107 of the Indian Penal Code for the deceased to commit suicide. Needless to state that it is a matter of temperament and various other variables which cumulatively lead a person to commit suicide. Without intending to indulge in any threadbare discussion it would be sufficient to observe that this video clip does not indicate that there was any abetment.

8. As far as the audio clip uploaded by the deceased attributing the applicants as the cause of his suicide, apparently it is a vague and omnibus statement, sans any details as to which conduct of the applicants has led him to commit suicide. Therefore it would be a sheer matter of inferences to be drawn based on all the attending circumstances. Merely because the deceased had said that he was committing suicide because of the applicants would not suffice.

9. True it is that no plausible and reasonable explanation is coming forth as to why the applicants failed to attend the concerned police station between 27.03.2021 to 03.04.2021. But then, when on facts, the allegations *prima faice* fall short to constitute abetment within the meaning of Section 107 of the Indian Penal Code, when nothing is to be recovered by or discovered from the applicants, the interim relief deserves to be confirmed with some stringent conditions which would obviate any tampering and

allay the fear being entertained by the prosecution.

10. True it is that three non cognizable reports seems to be registered, one on 11.02.2021, the second on 19.03.2021 and third on 31.03.2021 against some of the applicants. However in my considered view, in the facts and circumstances obtaining at hand, the fact would not be as relevant as is being sought to be made out by the prosecution. Imposing stringent condition of leaving the jurisdiction of the town or city would take care of the apprehension being entertained by the prosecution.

11. The Application is allowed. In the event of arrest of the applicants in connection with Crime No. 176/2021, registered with Chalisgaon (Rural) Police Station District Jalgaon, for the offences punishable under Section 306, 506, 506, read with Section 34 of the Indian Penal Code, they shall be released on bail on their executing personal recognizance for an amount of Rs. 25,000/- (Rs. Twenty Five Thousand only) each and furnishing a solvent surety in the like amount each, subject to following conditions :

(a) They shall attend the concerned police station every alternate day starting from 12.04.2021 between 10 a.m. to 11 a.m. till filing of the charge-sheet.

(b) They shall not tamper the evidence or influence the witnesses.

(c) They shall not enter into village Hatgaon Tq. Chalisgaon Dist. Jalgaon till filing of the charge-sheet.

(d) They shall also not enter into the limits of the territorial jurisdiction of Chalisgaon Rural Police Station except for attending the police station as per the above condition.

(MANGESH S. PATIL, J.)

mkd/-