

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

ANTICIPATORY BAIL APPLICATION NO. 224 OF 2021

Sakharam s/o Rambhau Divte ... **Applicant**
Age 48 years, Occu: Service
R/o Near Renukmata Kaman
Beed Bypass, Aurangabad.

VERSUS

The State of Maharashtra, ... **Respondent**
Through Bidkin Police Station,
District Aurangabad

Ms. Mansi N. Ghanekar h/for Mr. N.S. Ghanekar, Advocate for the applicant
Mr. V. M. Kagne, APP for the Respondent-State

WITH

ANTICIPATORY BAIL APPLICATION NO. 227 OF 2021

Tulshiram s/o Vasant Potdar ... **Applicant**
Age 40 years, Occu: Service
R/o Near BSNL Office
Satara Parisar, Aurangabad.

VERSUS

The State of Maharashtra, ... **Respondent**
Through Bidkin Police Station,
District Aurangabad

Ms. Mansi N. Ghanekar h/for Mr. Nilesh S. Ghanekar, Advocate for the applicant

Mr. V.M. Kagne, APP for the Respondent-State

WITH

ANTICIPATORY BAIL APPLICATION NO. 234 OF 2021

Bhaskar s/o Trimbakrao Salve ... **Applicant**
Age 56 years, Occu: Service as an
Extension Officer R/o Takshashila Nagar,
Jatwada Road, Harsul, Aurangabad

VERSUS

The State of Maharashtra,
Through Bidkin Police Station,
Taluka Paithan, District Aurangabad

... Respondent

Mr. N. T. Tribhuwan, Advocate for the applicant
Mr. V. S. Badakh, APP for the Respondent-State

WITH

ANTICIPATORY BAIL APPLICATION NO. 242 OF 2021

Vijay s/o Dattatraya Londhe,
Age 35 years, Occu: Service
R/o House No.38, Near Ganpati Temple,
Moti Nagar, Kedgaon, Ahmednagar
Tq. & District Ahmednagar

... Applicant

VERSUS

The State of Maharashtra,
Through Bidkin Police Station,
District Aurangabad

... Respondent

Mr. S. J. Salunke, Advocate for the applicant
Mr. V. S. Badakh, APP for the Respondent-State

CORAM : V. G. BISHT, J.
DATE : 10th August, 2021.

ORDER:

1. Heard both sides.
2. The learned A.P.P., at the very threshold, makes a statement that accusations against the applicants in Anticipatory Bail Application Nos.224/2021, 227/2021 and 234/2021 have been withdrawn by the informant. Therefore, interim relief operating in favour of these applicants is made absolute and confirmed.
3. As far as Anticipatory Bail Application No.242 of 2021 is

concerned, Mr. Salunke, learned counsel for the applicant, at the very outset, submitted that there is delay of two days in lodging the first information report despite the fact that the police station is at a distance of one km. from the residence of the informant. The learned counsel, in the light of the statement made by the learned A.P.P. that accusations against remaining three applicants have been withdrawn by the informant, submitted that the same could not have been done, if it is the case of the prosecution that the deceased had given oral dying declaration as to the cause of his death. The learned counsel also invited my attention to Exhibit- F, Page 41 and pointed out that the deceased, under the relevant Maharashtra Civil Service Rules (Conduct), was suspended because of breach of services rules. According to the learned counsel, necessary requisites of section 306, in the facts and circumstances of the case, are not attracted and in such circumstance, the interim relief granted by this Court on 4th March, 2021 needs to be confirmed.

4. Mr. Badakh, the learned A.P.P, on the other hand, invited my attention to the contents of the first information report and pointed out the specific allegations made against the applicant/accused. The learned A.P.P. also pointed out as to how and under what circumstances the deceased consumed poison. This being so, according to the A.P.P, there is no merit in the present application and the same deserves to be rejected.

5. A bare perusal of the first information report would show that at the relevant time, the deceased was Gram Sevak at Bidkin Grampanchayat. On 16.01.2021, the informant's deceased husband was under tremendous tension and on being confronted, the deceased husband informed her that Block Development Officer (BDO) Londhe i.e. the present applicant had told him that he want to verify the official record of the Grampanchayat and that in order to get sanctioned the plan of 15th Finance Commission, he would have to pay Rs. Five Lakhs to B.D.O. and other officers. On 18.01.2021, the deceased husband came along-with Sakharam Divate (Accused) and Tulshiram Potdar and after taking Rs.70,000/- from the informant, he paid it to Sakharam Divate alongwith Rs.30,000/- which were with him. On the same day, in the night hours, the deceased husband informed the informant that despite making payment of Rs. One Lakh, B.D.O. Saheb i.e.the present applicant is not satisfied and had asked him to arrange remaining Rs. Four lakhs till 10.00 a.m. of 19th January,2021, otherwise he would initiate a false enquiry and would dismiss him. Eventually, on 19.01.2021, she came to know from her nephew that some medicine had been taken by her husband and therefore she rushed to Gajanan Hospital, Bidkin. It is at that point of time, the deceased husband informed her that because of persistent demands of the money by B.D.O. Londhe (present applicant) and others, he has no other option but to commit suicide. During his treatment, he succumbed on 21.01.2021.

6. From the contents of the first information report what emerges is that the present applicant-accused for the first time, on 16.01.2021, told the deceased that in order to get the plan of 15th Finance Commission sanctioned, he would require Rs. Five lakhs so as to pay the said amount to B.D.O. and other officers, however, it is not made clear as to why such huge amount was purposely told to the deceased. Even it is not made clear that the said amount of Rs. Five lakh was directly asked by the present applicant from the deceased. It is also not made clear as to why the deceased took it upon himself to arrange the said amount of Rs. Five lakhs.

7. It is also pertinent to note here that today only the learned APP made a statement that the accusations against the remaining three accused have been withdrawn by the wife of the deceased i.e. the informant and if the so called oral dying declaration given to the informant-wife by the deceased is to be considered in the proper perspective, then the said dying declaration categorically implicates the remaining accused as well apart from the present applicant-accused. Thus there was no question of withdrawal allegations by the informant against the remaining accused.

8. So also, the deceased had allegedly consumed poison on 19.03.2021, whereas the first information came to be lodged on 21.01.2021 i.e. after two days of the main incident. No reason is assigned as to why the first information report was filed belatedly.

9. Even otherwise, in my considered opinion, if the first information report itself is read as a whole, it does not, in any manner, give resemblance of abetment or instigation on the part of the applicant so as to compell the deceased to commit suicide.

10. The above noted facts and circumstances do not, in any manner, prima facie establish the case of abetment leading to consequent suicide by the deceased.

11. For the aforesaid reasons, the application deserves consideration and the relief prayed for needs to be granted.

12. In view of above, the interim relief granted by this Court on 04.03.2021 is made absolute and confirmed.

13. Bail applications stand disposed of accordingly.

(V. G. BISHT, J.)

JPC