

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

932 ANTICIPATORY BAIL APPLICATION NO.284 OF 2021
WITH ABA/295/2021

SUNIL SHIVAJI GHANTE
VERSUS
THE STATE OF MAHARASHTRA
WITH
932 ANTICIPATORY BAIL APPLICATION NO.295 OF 2021

ANIL SHIVAJI GHANTE
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicants : Mr. Nilesh S. Ghanekar
Advocate for applicant in ABA 295 of 2021 : Mr. R.P. Mote
APP for Respondents: Mr. S.B. Narwade

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CORAM : PRAKASH D. NAIK J.

DATE : 2ND DECEMBER, 2021.

PER COURT:

1] Both the applicants are seeking pre-arrest bail in Crime No. 39 of 2021 registered with Jawahar Nagar Police station, Dist. Aurangabad for the offence under sections 306, 506, 34 of IPC. The FIR is lodged by Shivaji Navnath Kalalade.

2] The case of the prosecution is that on 31.1.2021, complainant went to Waluj with his friend. At about 4.30 p.m. he received a call. He was informed that he should return to home immediately. When he returned home, he saw his father lying on the floor in unconscious condition. On enquiry he was informed that his father was under tension. He committed suicide by hanging to ceiling fan. Chit written by him was found. In the said chit, it was stated that Anil Hoge Patil, Ashok Suryakant Gitabai Suryawanshi, Prakash Katare, Anil Ghante and Sunil Ghante had

harassed and threatened him and due to that he is committing suicide. The deceased had also stated that property in the name of Complainant's uncle Suryakant Suryawanshi and his mother Geetabai situated at S.No.1 area - 20 Acre 25 Guntha, near CIGMA hospital was sold by grandfather without consent of legal heirs. Litigation in that regard is pending in Court. The other property was looked after by Prakash Katare. He had purchased 14.50 guntha land for Rs.2 lakh by Isar Pavti. Share of complainant's mother was claimed by him parents with Prakash Katare. However, he was not parting money. He threatened complainant. Geetabai Suryawanshi and son-in-law Anil Patil and Ashok Surwanshi were not giving share of mother. Father of complainant demanded money. He was Threatened. Sunil Ghante is friend of complainant. Deceased has taken money from him by cash. In spite of payment, he was demanding money, deceased had given money to Anil Ghante by obtaining loan. He was not repaying installments. He was under tension.

3] The submission of learned counsel representing both the applicants is that, allegations are after-thought. Section 306 of IPC is not attracted. Custodial interrogation is not necessary. There is delay of about 18 days in lodging the FIR. The deceased had taken loan from Kalyan Chavan on 27.09.2019 for which loan agreement was executed. The applicant Sunil Ghante is witness to the agreement. The was a person facing financial crises. Allegations are vague. The immediate cause of suicide is uncertain. Even if alleged suicide note is considered, it would not attract section 306 IPC. There was no instigation by applicants to victim.

4] The learned APP submitted that the victim has committed suicide on account of harassment meted out to him by the accused. Specific role has been attributed to the applicants.

Suicide note shows involvement of the applicants. custodial interrogation is necessary.

5] From the documents and investigation papers, it appears that there were transaction between the parties. The victim has allegedly committed suicide. Assuming the allegations to be true, it is debatable whether Section 306 could be applied in the case. Investigation has proceeded. Statements of the witnesses are being recorded. Looking to the factual aspects of the matter, the applicants need not be subjected to custodial interrogation.

O R D E R

i] ABA No.284 of 2021 and 295 of 2021 are allowed.

ii] In the event of arrest of the applicants in Crime No. 39 of 2021, registered with Jawahar Nagar Police station, District Aurngabad , the applicants be released on executing PR Bond in the sum of Rs. 20,000/- each, with one or more sureties in the like amount.

iii] The applicants shall appear before the I.O. on 13th 14th and 15th December, 2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called till filing of charge sheet.

Iv] The applicants shall not tamper with the evidence.

V] The applications are disposed of.

[PRAKASH D. NAIK]
JUDGE

GRT/-.