

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 338 OF 2021

1. Munnibi w/o Lalu Pathan
Age : 35 years, Occu. Agri.
2. Lalubhai s/o Afzalbhai Pathan,
Age : 42 years, Occu. Agri.
3. Ayub s/o Afzalbhai Pathan,
Age : 41 years, Occu. Agri.
4. Samir s/o Lalu Pathan,
Age : 23 years, Occu. Agri.
5. Anwar s/o Sardar Pathan,
Age : 60 years, Occu. Agri.

All R/o Roshangao,
Tq. Badnagpur, Dist. Jalna

APPLICANTS

VERSUS

The State of Maharashtra,
through P.I. Badnapur Police Station,
District Jalna

RESPONDENT

Mr. Pratik A. Bhosle, Advocate for the applicants
Smt. G.L. Deshpande, A.P.P. for the respondent/State

CORAM : MANGESH S. PATIL, J.

DATE : 07.06.2021

PER COURT :

This is an application under Section 438 of the Code of
Criminal Procedure.

2. The FIR has been lodged at the instance of the wife of the deceased wherein she inter alia alleges that her deceased husband was having illicit relations with applicant No.1, who happens to be the wife of applicant No.2. It is alleged that the deceased left behind couple of suicide notes mentioning that he was made to part with Rs.20,000/- by applicant No.1 for repairing the housing, taking disadvantage of the illicit relations. It is then alleged in the suicide note that one day, applicant Nos.2 to 5 assaulted him and even threatened him of dire consequences. It appears that the deceased died of suspected poisoning and referring to the contents of the suicide note, the FIR was lodged.

3. I have heard learned Advocate for the applicants and the learned A.P.P.

4. It is necessary to note at the outset that the application to the extent of applicant No.1 - Munnibi w/o Lalu Pathan has already been dismissed. So far as the other applicants are concerned, this Court has granted them ad-interim protection by the order dated 01.04.2021. Pertinently, the order inter alia contains a condition to remain present before the Investigating Officer on every Saturday and to cooperate him. The Investigating Officer, in his written instructions to the learned A.P.P., has not at all made any grievance about non-compliance with this condition. This is suggestive of the fact that the applicants must have been remaining present before the Investigating Officer on every Saturday since the date of passing of

the order in the month of April, 2021. We are in the first week of June, 2021. It is, therefore, quite clear that the Investigating Officer had sufficient opportunity to interrogate them over this long period.

5. Besides, accepting the contents of the suicide notes, those would at the most disclose that the deceased was having illicit relations with applicant No.1 and that she had made him to spend Rs.20,000/- for repairing her house. It would further disclose that on some day, the other applicants had assaulted him and had threatened him of dire consequences.

6. Accepting these contents at their face value, there is every room to question as to if their such alleged conduct would constitute abetment within the meaning of Section 107 of the IPC.

7. All in all, even otherwise, going by the allegations, custodial interrogation of the applicant Nos.2 to 5 does not seem to be imperative.

8. The application is allowed. The ad-interim relief granted to applicant Nos.2 to 5 vide order dated 01.04.2021 stands confirmed with the same terms and conditions with a clarification that the condition regarding remaining present before the Investigating Officer would cease on filing of the chargesheet.

[MANGESH S. PATIL]
JUDGE

