

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

ANTICIPATORY BAIL APPLICATION NO. 444 OF 2021

- 1) Rushikesh s/o Govind Chavan,
Age 22 years, Occ. Agriculture.
- 2) Praful s/o Govind Chavan,
Age 19 years, Occ. Education.
- 3) Govind s/o Laxman Chavan,
Age 42 years, Occ. Agriculture.

All R/o. Therban Tq. Bhokar,
District Nanded.

... **Applicants.**

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station, Bhokar,
Dist. Nanded.

... **Respondent.**

...

Advocate for the Applicants : Mr. Bagal Suraj R.
APP for the Respondent/State : Mr. V.S. Badakh.

CORAM : **MANGESH S. PATIL, J.**
DATE : **01.07.2021.**

PER COURT :

Apprehending arrest in connection with Crime No. 130/2021, registered with Bhokar Police Station, District Nanded, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, the applicants are seeking bail under Section 438 of the Code of Criminal Procedure.

2. Shortly stated the allegations in the F.I.R. are to the effect that the deceased was the wife of the informant. They have a daughter of

marriageable age. They were searching from a suitable match. Deliberations for the marriage with a boy from village Datal were going on but the main accused Laxman along with the applicants who are his immediate relations allegedly established communication with the would be groom and saw to it that the marriage is not fixed. A similar attempt was made to solemnize the marriage of informant's daughter with a boy from Biloli but once again the applicants and Laxman played a spoilsport. Laxman is stated to have sent several messages to the would be groom and his relations bluffing that he had sexual relations with the girl and they were having affair for last couple of years. It is alleged that by their such conduct the applicants and Laxman made the life of informant's wife miserable who committed suicide and now they are being charged for abetting it.

3. I have heard the learned advocate for the applicants as also the learned A.P.P.

4. The learned advocate for the applicants at the outset submits that as the applicant No. 3 has already been arrested and released on bail, he seeks leave to withdraw the Application to his extent.

5. Learned advocate for the applicants would submit that Laxman is not before this Court. It is he who seems to have played active role in seeing to it that daughter of the informant is not married to anybody else. They have not made any communication with either of the would be grooms or their relations.

6. Learned advocate would further submit that Laxman is already arrested and behind the bars. Custodial interrogation of the applicants is not necessary. They are ready to cooperate the Investigating Officer and may be granted anticipatory bail.

7. Learned A.P.P. opposes the application. He submits that the F.I.R. specifically reads about even the applicants having played some role in not

allowing the marriage of informant's daughter to be performed. Thereby they have instigated his wife to commit suicide.

8. I have carefully gone through the papers of the investigation. Laxman is not before us. Going by the allegations he had some motive to see to it that daughter of the informant was not married elsewhere. We do not know whether it was lopsided affair or otherwise. The fact remains that he had sufficient motive.

9. However, so far as the applicants are concerned, there is absolutely no material in the papers of the investigation to, firstly, reveal that even they were aware about some affair between the informant's daughter and Laxman, and secondly, to show that they had ever established any communication with the would be grooms. No statement of such a boy from Datal seems to have been recorded by the Investigating Officer.

10. Though the statement of the boy from Biloli is recorded as also his relations, even they have not stated about any of the applicants having ever communicated with them. Even the text messages received by them were sent from the mobile of Laxman.

11. The sum and substance of the discussion is to the effect that there is absolutely no material to reveal that even the applicants were intending and had done any overt act in not allowing the marriage of the informant's daughter to be fixed.

12. Besides, since it is a matter of an offence punishable under Section 306 of the Indian Penal Code, assuming for the sake of arguments that the allegations in the F.I.R. are true and correct, still, there is a serious doubt as to if these allegations would fulfill the necessary ingredients for constituting an abetment as defined under Section 107 of the Indian Penal Code.

13. The Application is partly allowed. In the event of arrest of the

applicant No. 1 and 2 in connection with Crime No. 130/2021, registered with Bhokar Police Station, District Nanded, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, on their executing personal recognizance for an amount of Rs. 20,000/- (Rs. Twenty 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 as and when called by the Investigating Officer and shall co-operate him.

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

14. The Application to the extent of applicant No. 3 is disposed of as withdrawn.

(MANGESH S. PATIL, J.)

mkd/-