

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

CRIMINAL APPEAL NO.276 OF 2021

Satwaji Nivruttirao Sangale

... Appellant

Versus

The State of Maharashtra
and others

... Respondents

AND

CRIMINAL APPEAL NO.278 OF 2021

1. Devidas S/o Jalba Gite

2. Sudamatibai W/o Devidas Gite

3. Sadasiv S/o Dividas Gite

... Appellants

Versus

The State of Maharashtra
and others

... Respondents

....

Mr. Rajendra Deshmukh, Senior Advocate a/w Mr. Govind Kulkarni i/b Mr. Devang R. Deshmukh, Advocate for the Appellant in both Appeals

Mr. K.S. Patil, APP for Respondent Nos.1 to 3 in both Appeals

Mr. Ramchandra S. Patil, Advocate for Respondent No.4 in both Appeals

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 08th SEPTEMBER, 2021

PER COURT:-

1. The appellants – accused are seeking anticipatory bail in connection with Crime no.73 of 2021 registered with

Mala Koli Police Station, Taluka Loha, District Nanded for the offence punishable under Sections 306, 34 of the Indian Penal Code, 1860 (for short, IPC) and Section 3(2)(V) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Their application with similar prayer came to be rejected by the Additional Sessions Judge-1, Kandhar by order below Exhibit-1 in Criminal Bail Application No.85 of 2021 dated 18.05.2021 in respect of appellant-accused in appeal no.276 of 2021 and by order below Exhibit-1 in Criminal Bail Application No.88 of 2021 dated 18.05.2021 in respect of appellants in appeal no.278 of 2021. In terms of Section 14(A) (2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the appellants-accused have preferred these appeals.

2. Mr. Rajendra Deshmukh, learned senior counsel has pointed out that the vacation Court by order dated 04.06.2001 with elaborate observations in paragraph 3 of the said order, has granted interim anticipatory bail to all the appellants-accused with certain conditions. Learned senior counsel submits that in terms of such conditions, the appellants-accused are regularly

attending the concerned police station on every Monday between 10.00 a.m. to 12.00 a.m. till this date.

3. Learned senior counsel submits that the appellants are born and brought up in village Chondi, Taluka Loha, District Nanded. They are agriculturists by occupation. There are no antecedents.

4. Learned senior counsel submits that incident had allegedly taken place 20 years back while making construction of *Nala Bandh* in the forest land and at that time, some deer and peacocks were killed. Learned senior counsel submits that the deceased Shivdas was claiming to be a social worker and in the year 2021, i.e. 20 years after the said incident, the deceased has submitted an application before the forest authorities for making an enquiry into the matter. The deceased Shivdas had also intimated to the forest authorities that in case, if the enquiry is conducted against the certain persons including the present appellants, he would immolate himself. Learned senior counsel submits that the deceased Shivdas had allegedly committed suicide. Learned senior counsel submits that the said forest land is adjacent to the village of the appellants-accused

and the appellants-accused are having no concern with that agriculture land bearing Survey nos. 64, 32 and 33 situated in the forest area adjacent to village Chondi. Learned senior counsel submits that on the basis of these vague allegations, deceased Shivdas had allegedly committed suicide. Learned senior counsel submits that there are no allegations about abatement of commission of suicide and the deceased Shivdas had merely filed representation before the forest authorities for conducting the enquiry into the matter. Learned senior counsel submits that the interim anticipatory bail order may be confirmed.

5. Learned counsel for respondent no.4 – first informant submits that deceased Shivdas found dead in burnt condition near the land Survey no.64 and the said land was belonging to him. Learned counsel for respondent no.4 submits that one motorcycle was found near the dead body of deceased Shivdas and the said motorcycle was belonging to deceased Shivdas. In the dicky of the said motorcycle, the suicide note was found. Learned counsel submits that there are dark allegations in the suicide note against the appellants-accused and their names are also mentioned in the suicide note. In view of the same, the

custodial interrogation of the appellant-accused is necessary to find out the truth.

6. Learned APP submits that the investigation is in progress. The Investigating Officer has recorded the statement of the Range Forest Officer Mr. Shridhar Govindrao Kavle. Further, during the course of the investigation, the Investigating Officer has also recorded the supplementary statement of brother of the deceased namely Sudam. Learned APP has accepted that, except the suicide note, there is nothing on record to indicate that the appellants-accused are having concern with the land Survey Nos. 64, 31 and 32 as referred in the complaint. Learned APP further submits that, in terms of the allegations made in the suicide note, further investigation is necessary for which the custodial interrogation of the appellants-accused is necessary.

7. We have carefully gone through the contents of the police papers. However, we do not find the copy of the suicide note in the police papers. It is pertinent to note that the copy of the suicide note is placed on record by the learned counsel for respondent no.4 alongwith his affidavit. Learned counsel for

respondent no.4 has explained that the said suicide note was made viral, and as such, he obtained the copy of the same. Learned counsel further submits that it is not clear that who had made suicide note viral. We have gone through the contents of the suicide note. The allegations in respect of the incident allegedly occurred 20 years back and in the light of those allegations, we have gone through the statement of one Shridhar Govindrao Kavle, Range Forest Officer, Nanded. He has acknowledged the complaint received from deceased Shivdas in respect of the said incident about killing of four deer and ten peacocks during the construction of *Nala Bandh* work in the year 2010. However, even though the repeated reminders have been sent to deceased Shivdas for recording his statement and production of certain documents to substantiate his contention, deceased Shivdas did not appear before him. There is nothing in his statement to indicate that the present appellants-accused are having concerns with the incident.

8. In view of the same, we are inclined to confirm the interim order of anticipatory bail with same terms and conditions. We are of the considered opinion that the custodial interrogation is not required. The appellants-accused are

attending the concerned police station as directed in the interim order continuously till this date. There is no adverse report submitted by the Investigating Officer about infringement of the said condition in any manner. In view of the same, if the appellants-accused are cooperating in the investigation and in view of the nature of allegations as discussed above, we do not think that custodial interrogation of the appellants-accused is necessary to carry out the further investigation. Hence, the following order:

ORDER

- (I) Criminal appeal nos. 276 of 2021 and 278 of 2021 is hereby allowed.
- (ii) The interim anticipatory bail dated 04.06.2021 stands confirmed in same terms and conditions.
- (iii) Both the criminal appeals are disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P. Rane