

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

ANTICIPATORY BAIL APPLICATION NO. 622 OF 2021

- 1] Pawan s/o Raghunath Ghogare,
Age : 22 years, Occu. Agril.,
- 2] Shamrao s/o Bapunath Ghogare,
Age : 50 years, Occu. Agril.,
- 3] Devidas s/o Ganganath Ghogare,
Age : 39 years, Occu. Agril.,
- 4] Sanjay s/o Baherunath Ghogare,
Age : 40 years, Occu. Agril.,

All are R/o. Pedgaonwadi,
Tq. & Dist. Hingoli.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....
Shri. D. M. Shinde, Advocate for the applicants
Shri. S. D. Ghayal, APP for respondent/State
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**CORAM : V. G. BISHT, J.
DATE : 12th AUGUST, 2021**

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No. 0071 of 2021, registered with Basamba Police Station, District Hingoli, for the offences

punishable under Sections 306, 504, 506 read with 34 of the Indian Penal Code.

2. According to the prosecution, 15 days prior to the lodging of the FIR, informant's brother namely, Kisan was abused and beaten up by villagers namely; Bramhadeo Adinath Ghogare, Raghunath Bhairavnath Ghogare, Pawan Raghunath Ghogare (applicant no. 1), Shamrao Bapunath Ghogare (applicant no.2), Devidas Ganganath Ghogare (applicant no.3), Jagan Rangnath Ghogare, Sanjay Bhairavnath Ghogare and Vilas Purbhinath Ghogare. Both the parties had lodged complaints and counter complaints against each other. Even thereafter, the applicants and others used to quarrel with informant and threaten with death. Because of this, Kisan used to be constantly under tension. Accordingly, on 23.05.2021, the informant came to know that Kisan committed suicide by hanging himself on a tree in the field of Meni Nath Ghogare.

3. Shri. D. M. Shinde, learned Counsel for the applicants submits that, except one incident of quarrel against Bramhadeo and others, nothing else is alleged. Even if the entire complaint is taken as it is, the offence under Section 306 of the Indian Penal Code is not

made out. In such circumstances, the application deserves to be allowed, argued learned Counsel.

4. Shri. S. D. Ghayal, learned APP on the other hand would submit that, not only the applicants and other accused had quarreled, abused and beaten up the deceased 15 days prior to the lodging of the complaint but, even thereafter, they were in a habit of picking up quarrels for no reason and also indulged in giving death threats. This conduct of the applicants and others put the deceased under tremendous mental tension and as a result of which, he committed suicide. In such circumstances, it cannot be said that, there are no ingredients of Section 306 of the IPC. The application being devoid of merits, needs to be rejected, argued learned APP.

5. Section 306 of the IPC, which deals with abetment of suicide, contemplates that whoever abets the commission of suicide shall be punished with imprisonment.

6. In the case in hand, except there being alleged quarrel between the applicants and the deceased, nothing is brought on record to suggest even remotely that the present applicants were in any

manner responsible for instigating the deceased to commit suicide. *Prima facie*, the ingredients of Section 306 of the IPC are lacking. This being so, I am unable to accept the submissions advanced by the learned APP that the ingredients of Section 306 of the IPC are very much there so as to fasten the criminal liability on the part of the applicants.

7. In the result, I am inclined to allow the application and accordingly, it is allowed. The interim protection given by this Court (Coram : Mangesh S. Patil, J.) on 22.06.2021, is made absolute and confirmed.

[V. G. BISHT]
JUDGE