

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

ANTICIPATORY BAIL APPLICATION NO. 845 OF 2021

Prakash Nivrutti Dhabale,
Age : 39 years, Occu. Agriculture,
R/o. Pedgaon Road, Post Colony,
Parbhani, Tq. & Dist. Parbhani.

...Applicant

Versus

The State of Maharashtra

...Respondents

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Shri. Sudarshan J. Salunke, Advocate for the applicant
Shri. N. T. Bhagat, 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 applicant seeking grant of pre-arrest bail in connection with Crime No. 0233 of 2021, registered with Nava Mondha Police Station, District Parbhani, for the offences punishable under Sections 306, 506 read with 34 of the Indian Penal Code.

2. Informant, who is the wife of Anil Chakor (since deceased), finding her husband in distress, enquired the reason to

which deceased told that, he had borrowed some money from some persons and despite repaying the hand loan mount, those persons are demanding excess amount and threatening him. When the deceased sold two acres of land, Vishal Talekar and Prakash Dhabale @ Jamkar (present applicant) started asking for remaining amount from the deceased. On 20.06.2021, fed up with the harassment, the deceased committed suicide.

3. It is further alleged that, on 21.06.2021, when the police came to prepare spot panchanama, they found suicide note wherein it is alleged that Vishal Talekar, Prakash Dhabale (present applicant) and others were threatening the deceased to repay the remaining amount and again looted an amount of Rs. 2,50,000/- showing sticks and knife and because of this, he is committing suicide.

4. Shri. Sudarshan J. Salunke, the learned Counsel for the applicant submits that, even if the FIR is taken in toto, no ingredients of instigation are fulfilled to make out offence under Section 306 of the IPC. This being so, the application deserves to be allowed, argued the learned Counsel.

5. Shri. N. T. Bhagat, learned APP, on the other hand, submits that, suicide note clearly mentions the name of the applicant and others and that being the *prima facie* evidence, the present application should not be entertained and it be rejected outrightly.

6. Pertinently enough, the deceased allegedly committed suicide on 20.06.2021, whereas, the so called suicide note allegedly came to be recovered by the police only on 21.06.2021. The wife of the deceased could not lay her hands on the suicide note and only police could do that, that too on 21.06.2021. Moreover, the suicidal death having been taken place on 20.06.2021, the FIR came to be lodged on 23.06.2021, for which there is no explanation as to the delay.

7. Even if the allegations are taken at face value, it is not clear as to how the applicant is required to be kept in custody for the purpose of investigation into the alleged abetment to commit suicide by the deceased.

8. I am not impressed with the submissions advanced by the learned APP. On the other hand, this is a fit case where the present

application deserves consideration and accordingly, I pass the following order.

ORDER

- i. In the event of arrest of the applicant in connection with Crime No. 0233 of 2021, registered with Nava Mondha Police Station, District Parbhani, for the offences punishable under Sections 306, 506 read with 34 of the Indian Penal Code, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs. 20,000/- [Rs. Twenty thousand only], with one or two solvent sureties in the like amount.
 - ii. The applicant shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - iii. The applicant shall not tamper with the prosecution evidence in any manner.
9. Criminal application stands disposed of in the aforesaid terms.

[V. G. BISHT]
JUDGE