

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

27 ANTICIPATORY BAIL APPLICATION NO.1471 OF 2021
WITH APPLN/3209/2021 IN ABA/1471/2021

1. Murlidhar Devrao Hulge,
 2. Siddheshwar Murlidhar Hulge,
 3. Kavita Murlidhar Hulge,
 4. Swati Kishor Hulge
- ...Applicants**

VERSUS

The State of Maharashtra

...Respondent

...

Mrs. Ashwini A. Lomte h/f. Mr. S.J. Salunke, Advocate for applicants.
Mr. S.B.Narwade, APP for respondent-State.
Mr. P.N.Nagargoje, Advocate for complainant (assist to APP).

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CORAM : PRAKASH D. NAIK, J.
DATED : 20/12/2021.

PER COURT :

1. The applicants are seeking pre-arrest bail in Crime No. 0333/2021 registered with Ambajogai Rural Police Station, District Beed for the offence under section 306 r/w. 34 of Indian Penal Code (for short 'IPC').

2. The First Information Report (for short 'FIR') was registered on 7th November, 2021 by Sudarshan Gangadhar Hulge. It is alleged that the property situated at Gat No. 205 at Kumbhefal was in

the name of father of the complainant. The property at Gat No. 113 was purchased by complainant's father in the name of complainant. The property belonging to uncle viz. Murlidhar Hulge is adjacent to both the aforesaid properties. Common well is situated in the properties partitioned by the uncle of the informant and the informant. The father of the informant requested his uncle that his share in the property be given to him. Complainant Sudarshan demanded Rs. 1,00,000/-. Due to mediation of Vasant Bhosale and Madhukar Bhosale, Rs.50,000/- was parted by complainant Sudarshan and the balance amount was decided to be parted after the possession of his share is given to the complainant's father. Thereafter, his uncle Murlidhar Hulge, Siddeshwar Hulge, Kavita Hulge and Swati Hulge were harassing the complainant and his family. They used to pass through the agricultural land owned by the complainant. In the previous month Murlidhar Hulg, Siddeshwar Hulge, Kavita Hulge and Swati Hulge had assaulted the complainant's family. The villagers had intervened to resolve the complaint and hence, complaint was not lodged. Due to harassment of the accused, the complainant's father Gangadhar Hulge committed suicide by hanging on 7.11.2021. Two suicide notes were found on the person of the deceased.

3. The applicants had preferred an application for anticipatory bail before the Court of Sessions which is rejected by order dated 22.11.2021.

4. The learned advocate for the applicants urged that offence under section 306 of IPC is not made out. The allegations in the FIR are false. About 18-20 years ago partition took place between Murlidhar and Gangadhar. In the year 2009 Gangadhar had mutated the agricultural land in the name of informant on the basis of consent letter. The 7/12 extract of the agricultural land Gat No. 113 indicates that the names of applicant No. 1 and informant are shown in the other right column. There are entries regarding two wells. One is in the name of informant and other is in the name of informant and applicant No. 1. Gat No. 205 consist of many agriculturists. Applicant No. 1 and the deceased have agricultural land in Gat No. 205. Murlidhar and Gangadhar had discussed about the fertility of the land partitioned between them in Gat No. 205. Gangadhar had agreed to pay Rs.1,00,000/- to applicant No. 1 as one time settlement. He paid Rs.50,000/-. There were no quarrels between the two brothers. The chits relied upon by the prosecution are false. Custodial interrogation of the applicants is not necessary.

5. Learned APP submitted that the victim was continuously harassed by the accused. He was assaulted in the past. On account of harassment, he was compelled to commit suicide. The statements of the witnesses recorded during the course of investigation refer to the nature of harassment and assault made by the accused to the victim. The suicide notes were found which refers to assault and harassment caused to the deceased which were the reasons for committing suicide.

6. Learned counsel for complainant submits that the victim had committed suicide on account of continuous illtreatment caused to him by the accused. The victim was threatened and assaulted. The offence under section 306 of IPC is made out. Applicant No. 2 was involved in another case relating under Atrocities Act in which he was acquitted since witnesses had turned hostile. There is every possibility that applicant No. 2 would pressurize the witnesses in case relief is granted to him.

7. The learned counsel for applicants had relied on two decisions of this Court in support of his submission that the offence under section 306 of IPC is not made out. The first decision is

delivered by the Division Bench of this Court in the case of **Hafizur Rahman Sheikh Vs. The State of Maharashtra and Anr. [2021 ALL MR (Cri) 3453]** and another decision of Rajasthan High Court in the case of **Manish Kumar Sharma Vs. State of Rajasthan [1995 CRI.L.J. 3066]** delivered in Criminal Revision Petition No. 351/1993 on 28.2.1994. In the said decision, it was observed that there were transactions between both the sides and on account of demand of money it cannot be said that it would amount to abetment of suicide.

8. On perusal of F.I.R. and other documents, it appears that the complainant and deceased were related to each other. There was understanding in respect of the property. The victim was supposed to pay an amount of Rs.1,00,000/-, out of which Rs.50,000/- were paid by him. On that count, it is alleged that the victim was threatened, assaulted and abused by the accused. So many allegations put the question which arises for consideration, whether section 306 of IPC could be invoked and whether custodial interrogation of the applicants is necessary.

9. In the light of factual aspects, it is debatable whether section 306 of IPC could be applied. The facts of the case also indicates

that the custodial interrogation of the applicants is not necessary.

Hence, I pass the following order.

ORDER

- i. ABA No. 1471/2021 is allowed.
- ii. In the event of arrest of applicants in Crime No. 0333/2021 registered with Ambajogai Rural Police Station, District Beed for offence under section 306 r/w. 34 of I.P.C., the applicants be released on bail on executing PR Bond in the sum of Rs.20,000/- each, with one or more sureties in the like amount.
- iii. The applicants shall report the Investigating Officer on 27th, 28th and 29th December, 2021 between 11.00 a.m. to 1.00 noon.
- iv. The application stands disposed of.
- v. Criminal Application No. 3209/2021 filed for assisting APP also stands disposed of.

[PRAKASH D. NAIK, J.]

ssc/