

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.621 OF 2020
WITH
INTERIM APPLICATION NO.1262 OF 2020
(Not on Board)**

Karuna Niraj Choubey and Anr.	.. Applicants
<i>Versus</i>	
State of Maharashtra	.. Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.622 OF 2020
WITH
INTERIM APPLICATION NO.1263 OF 2020
(Not on Board)**

Umesh Vansaraj Tripathi	.. Applicant
<i>Versus</i>	
State of Maharashtra	.. Respondent

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Mr.Manoj Mohite, Senior Advocate i/b. Mr.Sachin H. Deokar,
Advocate for the Applicant in ABA 621 of 2020.

Mr.Sachin H. Deokar, Advocate for the Applicant in ABA 622 of
2020.

Mr.Vinod Gangwal, Advocate for Intervenor in both IA.

Mr.Y.M. Nakhwa, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : MARCH 04, 2021.

P.C. :

The applicants in these applications are seeking
anticipatory bail in connection with C.R.No.59 of 2020, registered

with Vartaknagar Police Station, Thane, for the offences punishable under Sections 306, 504 and 506 of Indian Penal Code ("IP", for short). First Information Report ("FIR", for short) was registered on 15th February, 2020.

2 The FIR was lodged by Vidhyadevi Chandrabhan Choube. She is wife of deceased Chandrabhan Choubey. According to complainant, on 11th February, 2020, on account of harassment and torture caused by the accused, complainant's husband committed suicide by hanging to ceiling fan in the house. Complainant's daughter-in-law Karuna, her father-in-law Umesh Tripathi and brother Manoj Tripathi are responsible for death. According the complainant marriage of complainant's son Niraj was solemnized with Karuna in 2003. There are two children out of the said wedlock. Since 2019, there were quarrels between her son Niraj and his wife Karuna on petty issues. Karuna used to abuse the complainant and her husband. She was insisting that property admeasuring 660 square feet situated at Savaskar Nagar, Kutavali village, Aajamgad, which is in the name of complainant's husband be transferred to her name or else she would lodge complaint and they will be sent to jail. Her father and brother used to threaten the complainant and her husband.

They used to abuse complainant's son and insisted that the property be transferred in the name of Karuna. In August 2019, there was quarrel between Niraj and Karuna. Karuna used to threaten the complainant and refused to provide food to complainant. She used to visit her parental home and instigate her parents, who in turn used to threaten the complainant and her husband. Complainant's husband (deceased) had told Karuna that she should come back to matrimonial home and he will find out solution. However, Karuna was adamant. She insisted that the property be transferred in her name. Complainant's husband told her that he would not transfer the property in her name, but, he would transfer it in the name of her children. On 3rd December, 2019, Karuna left matrimonial home and went to her parent's house. On 2nd February, 2020, preparations were going on to celebrate birthday of complainant's husband. At that time, the granddaughter had called to wish him. While complainant's husband was talking on phone, father of Karuna snatched phone from the granddaughter and in a filthy language threatened the deceased. On account of abuse, the complainant's father was in depression. On 8th February, 2020, Karuna called complainant and informed that she is visiting matrimonial home alongwith her relations. She also told the complainant to call their relatives. On

10th February, 2020, Karuna was dropped by her brother at matrimonial home. At that time, the complainant's husband has informed her that she should not worry and they would not cause any injustice to her. In the evening, while the complainant and her husband were talking, Karuna came and sat next to them to find out what discussion is going between them. Daughter of the complainant was also in the house. She told Karuna that they would talk about the solution and she should not worry. No injustice would be caused to her. Karuna went to bed room and, thereafter, sent her daughter Arpita to inform the complainant that her family members are visiting complainant's house and they should call their relatives. The complainant told her that they do not want to call any relatives. After some time, 10 to 15 persons visited the house. Manoj Tripathi (brother of Karuna) and other unknown persons came with him. Complainant's husband tried to go out from the house to avoid any altercations. The persons who had visited with Manoj Tripathi did not allow him to go out and made him to sit in the house. He was abused. He was told to give writing immediately that the property will be transferred in the name of Karuna. The deceased told them that he would transfer property in the name of his grand children and some time may be given to him till next day morning. All those

persons started quarreling with complainant's husband. Daughter of complainant gave call to police helpline on 100 number. Police came there. The visitors were made to leave the house. Son of the complainant came there. He questioned Sheshnag Choubey who is father-in-law of brother of Karuna as to what is his locus to be in his house. He told him that Umesh Tripathi had told him to come. He abused Niraj and left the house. At that time, Karuna took her articles and started leaving house to go to her parents house with Manoj. The complainant snatched the bag from her hands. At that time, brother of Karuna went to the police station and lodged complaint of assault. Karuna and her brother along with daughter left the house. Niraj had difficulty in breathing; therefore, he was taken to hospital with the help of neighbours. He was hospitalized. On 11th February, 2020 in the morning, complainant's husband returned home since Niraj was feeling good. The complainant's daughter was at home. Complainant went to the hospital. Thereafter, she returned home. Although the complainant rang door bell, the door was not opened. Door was opened by using force. It was found that complainant's husband had committed suicide with use of his Dhoti by hanging to ceiling fan. Deceased had written suicide note in the diary stating that Karuna, Umesh Tripathi and Manoj Tripathi have made his life

and life of his family miserable. Writing was also made on the wall and bathroom, holding applicants responsible for his death.

3 Applicants preferred an application for anticipatory bail before the Sessions Court, which has been rejected by order dated 7th March, 2020.

4 Learned advocate appearing for the applicants submitted that no offence under Section 306 is made out against the applicants. The allegations in the FIR are concocted. On account of matrimonial discord between the daughter-in-law of the complainant Karuna with her husband and an attempt was made to resolve the same. It cannot be said that the deceased was compelled to commit suicide. There was no instigation. There was no reason to commit suicide. N.C. complaint was lodged on date of incident by brother of Karuna. It is further submitted that to constitute the offence under Section 306 of IPC there is to be instigation to abetment. There is no element of abetment or instigation compelling the deceased to commit suicide. Custodial interrogation of the applicants is not necessary. Applicant Umesh Tripathi was not even present at the place of incident. Karuna was at her parental home and she had just returned to

matrimonial home before the incident. Assuming that request was made to secure the rights of the daughter-in-law, it cannot be said that the victim was harassed to such an extent that he had no option but to commit suicide.

5 Learned APP submitted that there was continuous harassment to the victim. He was senior citizen. He was a retired teacher. He had assured his daughter-in-law that injustice would not be caused to her. However, all the time, Karuna, her brother and father were insisting that property which stands in the name of the deceased be transferred to her name. Threats were issued that they will be implicated in the case and sent to jail. Harassment was unbearable. The victim was mentally tortured by them. There was no delay in lodging FIR. The entire family was under shock. The incident had occurred immediately after the incident of threats, abuses. All the accused had caused harassment to the entire family. Learned APP also pointed out the statement of witnesses recorded during the course of investigation, which reflects the nature of harassment caused to the deceased and the entire family. He further pointed out to suicide notes written by the deceased, the photograph of the said note, which were written on the wall of the room, bathroom and

diary, holding the applicants responsible for his death. It is only on account of the torture caused by the applicants victim had committed suicide.

6 Learned counsel for the intervenor also made similar submissions. In addition to that he submitted that on 22nd October, 2019, deceased Chandrabhan Choubey has written complaint to the police stating that his daughter-in-law keeps on threatening them that she would lodge complaint. He alleged that she would file false charge against them. She keeps on threatening that they will be removed from the house. She also keeps on threatening on phone. She had gone to her parental home and makes threatening calls from there. The cumulative effect of all these acts and compelled the deceased to commit suicide.

7 I have perused the FIR, the documents annexed to this application, order passed by the Sessions Court and investigation papers produced by learned APP. From the FIR and statements recorded during the course of investigation it appears that there was constant harassment to the deceased and her family. The accused were repeatedly insisting that property which

stands in the name of deceased be transferred in the name of applicant Karuna. Statement of Smita Tiwari depicts the incident which had occurred on 10th February, 2020. The son of deceased Niraj was married to Karuna. Immediately after the incident dated 10th February, 2020, he had breathing problem and he was hospitalized. The complainant and others had visited the hospital. According to prosecution, the deceased was in disturbed state of mind. He is a senior citizen. He is a retired teacher. According to prosecution, he tried to convince her daughter-in-law that no injustice would be caused to her. The deceased had also assured that the property would be transferred in the name of the grandchildren. It is pertinent to note that the marriage was solemnised in 2003. There is no other issue of matrimonial discord; it would mean that issue was only relating to transfer of property. Several persons had visited the house of the complainant from the parental side of Karuna. Umesh Tripathi, Manoj Tripathi and others were constantly threatening. The daughter of complainant is required to give call to police by dialing 100 number. Police arrived. The persons who visited house of the complainant were made to leave the house. According to complainant, 10 to 15 persons have visited. Suicide note named applicants. The note mentions that daughter-in-law

Karuna, Umesh Tripathi and Manoj Tripathi are responsible for his death. They had made their life miserable.

8 The Supreme Court in the case of ***Chitresh Kumar Chopra Vs. State (Government of NCT of Delhi) (2009)***¹.The Court observed that, to constitute, “instigation”, a person who instigates another has to provoke, incite, urge or encourage the doing of an act by the other by “goading” or “urging forward.” The dictionary meaning of the word “goad” is a thing that stimulates someone into action, provoke to action or reaction to keep irritating or annoying somebody until he reacts. Similarly urge means to advice or try hard to persuade somebody to do something or to make a person to move quickly and or in a particular directions, especially by pushing or forcing such person. Therefore, a person who instigates another has to “goad” or urge forward the latter with intention to provoke, incite or encourage the doing of an act by the latter. The question as to what is the cause of a suicide has no easy answers because suicidal ideation and behaviours in human beings are complex and multifaceted. Different individuals in the same situation react and behave differently because of the personal meaning they add to each event, thus accounting for individual vulnerability to

1 (2009) 16 SCC 605

suicide. Each individual's suicidability pattern depends on his inner subjective experience of mental pain, fear and loss of self-respect. Each of these factors are crucial and exacerbating contributor to an individual's vulnerability to end his own life, which may either be an attempt for self-protection or an escapism from intolerable self. It is further observed that in that case, apart from suicide note, statements recorded by Police during investigation, tend to show that on account of business transactions with accused, the deceased was put under tremendous pressure to do something which he was perhaps not willing to do. *Prima facie* conduct of accused was such that deceased was left with no other option except to end his life. In the case of ***Pravin Pradhan Vs. State of Uttaranchal & Anr.***². The applicant therein had prayed for quashing the proceedings. The deceased had left suicide note. The complainant had alleged that accused had long been attempting to compel the deceased to indulge in several wrongful practices was not comfortable with complying with such orders and as a consequence, the appellant started making illegal demands and as the same were not fulfilled, he began to harass and insult the deceased at regular intervals. On one occasion, deceased was disgraced in presence of staff by stating that, "had there been any other person in his

place, he would have died by hanging himself. The apex Court referred to decision in the case of Madan Mohan Singh (Supra) and several other decisions. It was further observed that, instigation has to be gathered from the circumstances of a particular case. No straitjacket formula can be laid down to find out as to whether in a particular case there has been instigation which forced the person to commit suicide. In a particular case, there may not be direct evidence in regard to instigation which may have direct nexus to suicide.

9 This is not the stage to give any finding. *Prima facie*, there is material on record attributing specific role to the applicants. Hence, it is not a fit case to exercise power under Section 438 of Cr.P.C.

:: ORDER ::

- (i) Anticipatory bail applications 621 and 622 of 2020, are rejected and disposed of accordingly;
- ii) Interim Application Nos.1262 and 1263 of 2020, are disposed of

(PRAKASH D. NAIK, J.)