

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

ANTICIPATORY BAIL APPLICATION NO.720 OF 2021

Manoj Dasharath Khaire & Ors. Applicants

versus

State of Maharashtra Respondent

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- Mr.Nitin Sejpai, Advocate for Applicants.
- Mr.Ajay Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 15th MARCH, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.I-79-21 registered with Panchawati Police Station on 02/03/2021, under sections 306, 504, 506 r/w 34 of the Indian Penal Code.

2. The Applicant Nos.2, 3 and 4 are sisters. They are daughters of Applicant No.5 Ramesh Trimbak Nikam. Applicant No.1 is Applicant No.3's husband and Applicant No.6 is Applicant No.4's husband. Thus, all of them are related. The

events leading the filing of the FIR start with commission of suicide by Applicant No.5's daughter Priya, who was sister of Applicant Nos.2, 3 and 4. She had committed suicide on 21/10/2020. The Applicant No.5 had lodged FIR in that case on 22/10/2020 at Panchawati Police station. In that connection Priya's husband Kunal Gaikwad and his brother Yogesh were arrested. Yogesh was released on bail around Diwali time in 2020 and Kunal was released on bail on 06/01/2020. Subsequently, Kunal committed suicide and the Applicants are seeking anticipatory bail in connection of his suicide.

3. The FIR was lodged in C.R.No.I-79/21, at Panchawati police station by Kunal's brother Yogesh. He has stated about the history of their arrest and subsequent release on bail. After Kunal's release on bail, he was residing with his parents at Hirawadi, Nashik. He was always under mental pressure. He used to tell Yogesh that he used to receive threatening calls from unknown phone numbers. Callers used to tell him that they had video clips and audio recording because of which, his bail could

be cancelled. He was suspecting that the phone calls were made either by or at the behest of the Applicants Sonali Sonawane, Manoj Khaire and Manik Mahajan i.e. the Applicant Nos.1, 2 and 6. The Applicant No.5 Ramesh used to meet him personally and used to threaten him. It is alleged that on 16/02/2021, Applicant No.2 Sonali Sonawane and Applicant No.4 Vrushali Mahajan and Applicant No.3 Jyoti Khaire, abused Kunal before his daughter. The sisters used to demand money from Kunal, which according to them was actually belonging to their sister Priya. Finally Kunal committed suicide in his house on 19/02/2020. On these allegations, the FIR was lodged by his brother Yogesh.

4. Heard Mr.Nitin Sejpai, learned counsel for the Applicant and Mr.Ajay Patil, learned APP for the State.
5. Mr.Sejpai submitted that there is delay in lodging the FIR. The deceased had committed suicide on 19/02/2021 and the FIR was lodged on 02/03/2021. This shows that it was

lodged as an afterthought to seek revenge as Yogesh the first informant was arrested in the FIR lodged by Applicant No.5 Ramesh. He submitted that in any case, the allegations in the FIR are vague and those allegations would not fall within definition of 'abetment'. He submitted that neither of the Applicants had made any phone call to the deceased. The Applicants had not even attended the wedding when the alleged incident of giving abuses in front of the daughter of the deceased had occurred.

6. Learned APP relied on the averments in the FIR. He produced the investigation papers before me, which contain the spot panchanama mentioning the contents of suicide note left behind allegedly by the deceased.

7. I have considered these submissions and I have perused the investigation papers produced before me. There are statements of few friends of the deceased Kunal. All of them have stated that he was addicted to liquor and on the previous

day i.e. on 18/02/2021, he had called his friends under influence of liquor. The suicide note itself names Applicants and others. It shows his frustration and his state of mind. However, the text of suicide note is little difficult to understand.

8. The FIR itself shows that the Applicant No.5 had lost his daughter Priya for which Priya's husband i.e. deceased in this case was arrested and subsequently released on bail. Therefore both the sides had grievances against each other. The Applicants' frustration was understandable as they were squarely blaming Kunal and his brother for Priya's suicide. Therefore their conduct towards Kunal was understandable. However, at this stage, there is no concrete material with the investigating agency to show that Kunal was threatened by either of the Applicants. Therefore it is doubtful as to whether, the role attributed to the Applicant would fall within the meaning of abetment as defined u/s 107 r/w 306 of the IPC.

9. The Applicant No.5 is 73 years of age. The Applicant

No.2 is residing at Ahemedabad. Applicant No.1 is an employee with police department at Panchawati Police station. Applicant Nos.3 and 4 are sisters of Priya and Applicant No.6 Manik Mahajan is the husband of Applicant No.4 Vrushali as mentioned earlier. There is nothing to show that either of these Applicants had made a phone call threatening the deceased Kunal. In this view of the matter, custodial interrogation of the Applicants is not necessary. The investigation can proceed without their arrest. The Applicants however will have to cooperate with the investigation.

10. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.I-79-21 registered with Panchawati Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Applicant No.1 shall keep himself away from investigation of this case and shall not in any manner try to influence or tamper with the investigation.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)