

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.298 OF 2022

ASAD S/O BABUMIYA MACHKORI (PATHAN)
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. V. V. Bhavthankar
APP for Respondent-State : Mr. V. M. Kagne
.....

**WITH
ANTICIPATORY BAIL APPLICATION NO.299 OF 2022**

SHAIKH TAHER SHAIKH YADULLA
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. V. V. Bhavthankar
APP for Respondent-State : Mr. V. M. Kagne
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 04-04-2022

ORDER :

1. Both the applicants are apprehending their arrest in connection with Crime No.07 of 2022, registered with Ramteerth Police Station, District Nanded, for the offence punishable under Section 306, 363, 342 read with 34 of the IPC.
2. Heard learned Advocate Mr. V. V Bhavthankar for applicant and learned APP Mr. V. M. Kagne for respondent-State.

3. It has been vehemently submitted on behalf of the applicants that the applicants have been falsely implicated. If the contents of the FIR are seen which is lodged by the daughter of the deceased, then she had come to know about the abduction of her father on 04-01-2022 itself. However, she had not lodged any report with the police. She had even talked with her father on mobile number and came to know that he was brought by those persons on 03-01-2022 at the said place, and she was asked to fetch amount of Rs.5 lakh and then her father committed suicide on 06-01-2022. Then she has lodged the report on 09-01-2022. There is inordinate delay in lodging the FIR. There is no direct or indirect evidence against the applicants. The custodial interrogation of the applicants is not required. They are ready to abide by the terms of the bail.

4. Per contra, the learned APP submitted that deceased Pandhari Laxman Panchal was in fact resident of Khanapur, Bhagyanagar Colony, Nizamabad (Telangana State). The daughter is married and she resides at Shriram Colony Bichkunda, Taluka Bichkunda District Kamareddi (Telangana State). She got information on 04-01-2022 from one Machinder Maharaj that when he and deceased Pandhari were talking in front of the house, three persons came in Swift

Dezire bearing No.MH-26/3487 and Pandhari was taken by those persons. She gave a call to one number from which she had received phone call about 15 days prior to 09-01-2022 and those persons told that they have brought her father to Shankar Nagar Ramteerth Quarter and she should bring amount of Rs.5 lakh within 15 days. She asked them as to for what purpose that amount is required. Those persons told that her father knows it and it is of Matka (Gambling). The mobile was then given to her father and father talked to her. Father told that he is along with one Asad Babumiya Pathan and Shaikh Taher. She was again called from one mobile on 05-01-2022 and at that time she told that her father should not be harassed and she is collecting amount. Then those persons told that she should bring amount of Rs.2 lakh and can give rest amount later on and he is the middle man. Father then told that if the amount is not given, he would taken to Nanded. But then she received phone call on 06-01-2022 stating that her father has committed suicide by hanging.

5. Her supplementary statement has also been recorded. When the fact was informed about the suicide to the police station by the Police Patil of Ramteerth, Taluka Biloli, District Nanded, the inquest

panchanama was carried out. It is stated that the deceased had hanged himself with the help of two big pieces of clothes. No doubt, the question arose as to if the person is abducted, then how the piece of cloth would be available to him. But then statements of Witnesses have been recorded which would give same indication that Pandhari was not kept in captivity. The post mortem report gives probable cause of death as, "asphyxia due to hanging." Therefore, there is no doubt that deceased had committed suicide. Now turning towards the statements of witnesses it can be seen that those persons who were around the quarter, were knowing the present applicants and they had seen the deceased in the company of the applicants. The CDRs of the phone of the applicants matched with the phone numbers given by the informant. Therefore, there appears to be prima facie case against the present applicants. Provision of Section 363 of IPC will not be attracted since deceased was the major person, but then it would be under Section 366 of IPC i.e. abduction. As regards offence under Section 306 of IPC is concerned, it is not that the verbal communication should lead to the suicide but actions of the accused either independently or together with verbal communication whether had instigated the commission of the suicide, is then required to be seen. At this stage what has

come on record is that the deceased was abducted for ransom and when the daughter was being insisted that she should bring the amount, the circumstances might have been created for the deceased to commit suicide. Therefore, when the investigation is in progress and there is some material showing involvement of the applicants, they do not deserve discretionary extraordinary relief under Section 438 of Cr.P.C. Hence, the applications stand rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.