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

ANTICIPATORY BAIL APPLICATION NO.556 OF 2022

**AJAY BHAGWAN KASHIKAR THROUGH HIS GUARDIAN APPLICANT
NO. 3 AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA**

Mr. V. B. Patil, Advocate for applicants;
Mr. R. S. Deshmukh, Senior Advocate and Mr. D. R. Kale, PP
(Appointed as *Amicus Curiae* to assist the Hon'ble Court)
Mr K. S. Patil, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 20th September, 2022

PC.

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. The interim protection was granted to the applicants by order dated 06.05.2022. However, the matter was kept in abeyance as the issue whether a juvenile can claim the anticipatory bail was referred to the Division Bench. In A.B.A.No. 277 of 2022 (Raman Prakash Mundhe and another Vs. State of Maharashtra and another), the Honourable Division Bench of this Court answered the reference by order dated 15.07.2022, that a 'child' and a 'child in conflict with law' as defined under the Juvenile Justice (Care and Protection of Children) Act, 2015 can file an application under Section 438 of the

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Code of Criminal Procedure, 1973. Since the issue referred to the Division Bench has been answered in favour of the child and the child in conflict with law, the application filed by the applicant No.1, who is a juvenile, is heard finally.

3. The learned counsel for the applicants has vehemently argued that there is no iota of evidence of abetting the deceased to commit suicide. The allegations levelled against the applicants were that they assaulted the deceased since he was not repaying the money advanced to him. They assaulted him mercilessly. The deceased was to lodge the report, but the applicants convinced him. However, then the deceased went to the field for watering the maize crop. His brother Jivan went to the field with tiffin, but did not find the deceased in the field. Thereafter, his dead body was found. It has also been vehemently argued by the learned counsel for the applicants that the applicants have no concern with the suicide committed by the deceased. They never harassed him. Nothing is to be recovered from them.

4. The learned A.P.P. has strongly opposed the application contending that the offence is serious. Only for money, the complainant has lost her husband. The applicants were harassing him for money. The dead body of the deceased was found lying in the field of one Prabhu Ubale with a bottle containing a poisonous

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substance. He has certain injuries on his chin. Therefore, the custodial interrogation of the applicants is essential.

5. The first information report does not disclose the allegations that the applicants have used the force or did some act that caused the death of the deceased. The first information report reveals that the deceased did not pay the money advanced by the applicants; hence, he was assaulted. The deceased died when he was in the field. The police must have recovered the incriminating material from the spot of the incident. Considering the reasons for which the deceased had committed the suicide, the applicants have a good case for anticipatory bail. Hence, the following order :-

- i) The application is allowed.
- ii) The interim protection granted to the applicants No. (2) Anna Ramchandra Kashikar and (3) Rukhmanibai Bhagwan Kashikar, by order dated 06.05.2022, is confirmed on the same terms and conditions.

(S. G. MEHARE, J.)

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