

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

**ANTICIPATORY BAIL APPLICATION NO.1179 OF 2021
WITH
CRIMINAL APPLICATION NO.2335 OF 2021**

- 1) Ranjana Babasaheb Kharat,
- 2) Chaya W/o Sanjay Jadhav,
- 3) Chandramani S/o Appasaheb Salve,
- 4) Siddharth Anna Salve,
- 5) Babasaheb S/o Bhagwan Kharat,
- 6) Nagesh Raosaheb Salve,
- 7) Prakash Raosaheb Salve,
- 8) Akash Raosaheb Salve

...APPLICANTS

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Abhaysinh K. Bhosle Advocate for Applicants.
Mr.N.T. Bhagat, A.P.P. for Respondent-State.
Mr.S.B. Rajebhosale Advocate for assist to APP.
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CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 12th JANUARY 2022

DATE OF PRONOUNCING ORDER : 1st FEBRUARY 2022

ORDER :

1. Criminal Application No.2335 of 2021 moved for assist to APP stands allowed and disposed of.
2. The applicants in Anticipatory Bail Application are apprehending their arrest in connection with Crime No. 626 of 2021 registered with CIDCO Police Station, Aurangabad for the offence punishable under Sections 143, 147, 149, 452, 324, 323, 504, 506 of the Indian Penal Code.
3. Heard learned Advocate for the applicants and learned APP for the respondent – State well assisted by learned Advocate Mr. Rajebhosale for the informant.
4. It has been vehemently submitted on behalf of the applicants that the applicants are innocent and they have not committed any offence. In fact applicant No.1 had lodged report against the informant as well as her husband in respect of outraging her modesty. However, it was taken in the form of Station Diary Entry and no proper First Information Report under

Section 154 of the Code of Criminal Procedure was taken. Applicant No.1 is reserving her right to approach the appropriate authorities. However, as regards the First Information Report lodged by one Jamunadevi Lakhansing Rajput is concerned, it alleges that applicant No.1 had quarreled with the informant and her husband and after abusing them she had gone to her house and that incident had taken place at about 12.00 noon on 5th September 2021. It is then stated that applicant No.1 returned at about 12.30 p.m. along with 40 to 50 persons and they had abused the informant and her family members. They were beaten by fists and kick blows, wooden log and threats to kill were given. It is then stated that four unknown persons entered their house and assaulted the husband of the informant severely and then all of them left. It is then stated that the gold ornaments, mobile phone have been missing from their house during the incident. The custodial interrogation of the applicants on the basis of these averments is not necessary. Note will have to be taken of the fact that thereafter the husband of the informant is stated to have committed suicide, however, no offence has been separately registered against the applicants as on today nor any section has been added in this First Information Report. The applicants are ready to abide by the

terms of the bail and in fact their case is squarely covered under the decision of ***Arnesh Kumr vs. State of Bihar, 2014(8) SCC 273***, wherein Hon'ble Apex Court has given guidelines, yet the applicants are apprehending their arrest and therefore, they had approached the learned Additional Sessions Judge. Though interim protection was earlier granted to them, thereafter final relief was not given.

5. Per contra, the learned APP well assisted by learned Advocate Mr. Rajebhosale for the informant strongly opposed the application and submitted that when a mob of 40 to 50 persons was brought by applicant No.1, it indicates the intention. Not only the informant, her husband and other family members were assaulted, but taking shock of the incident the husband of the informant had committed suicide by hanging. Though the informant is resisting that Sections 306, 120-B of the Indian Penal Code and other sections should be added in the First Information Report or offence should be registered against the accused persons, as on today the inquiry under Section 174 of the Code of Criminal Procedure vide A.D. No.79 of 2021 is still going on. The report from the Chemical Analyzer is awaited.

6. Independently, it will not be out of place to mention here that separate affidavit has been filed by the informant who has taken objections as regards the lodging of the present First Information Report itself and then it is stated that her husband had committed suicide around 2.00 p.m. on the same day, how the informant could have been present before the police when present First Information Report vide Crime No.626 of 2021 came to be registered at about 21.00 hours on the same date. She was not physically present at that time. It is stated that the police are not taking appropriate action. Taking into consideration the gravity of the offence, the applicants do not deserve any sympathy, much less the relief of extra ordinary nature. The informant has then reiterated the same story and according to her offence ought to have been registered under Section 395 of the Indian Penal Code also.

7. At the outset, at present the First Information Report that has been lodged by the informant vide Crime No.626 of 2021 on 5th September 2021 at 21.00 hours, has been registered for the offence punishable under Sections 143, 147, 149, 452, 324, 323, 504, 506 of the Indian Penal Code. Perusal of the First Information Report would show that it states that information

was received to the Police Station about the incident at 15.00 hours and the General Diary Reference is stated to be Entry No.44 on the same date at 23.01 hours. It does not make a mention about suicide by the husband of the informant. It would then be for the prosecution to explain as to when and under which circumstance the said First Information Report was lodged or taken down by the police authorities from the informant. It cannot be gone into by this Court at this stage. Now the allegations stand as it is, state about assault to the informant by fists and kick blows. The First Information Report makes mention of name of only applicant No.1 and one Chaya, whose full name has not been given, but she appears to be applicant No.2. Omnibus statement, as regards the other accused are concerned, is made that they had also assaulted by wooden logs. When mob of 40 to 50 persons was there, it could not have been stated that all of them have been armed with sticks / wooden logs. Further, what would have been the motive for such a mob to attack on the family of the informant is a question. Merely because applicant No.1 would have had enmity with the informant and some incident had taken place earlier, that does not mean that other co-accused would have blindly followed her. *Prima facie*, there appears to be an exaggeration. Role has not

been attributed to each and every accused or the applicants with whom we are concerned at present. Under such circumstance the physical custody of the applicants appears to be not required.

8. Now turning towards the unfortunate incident of suicide committed by the husband of the informant, as per the Investigating Officer the inquiry under A.D. No.79 of 2021 under Section 174 of the Code of Criminal Procedure is still going on. That means the Investigating Officer has not yet come to a conclusion that such offence has taken place. The satisfaction of the Investigating Officer is important and not that of the informant. The sentiments can be understood, however, in order to connect the said incident with the present crime, it appears that the Investigating Officer is of the opinion that some more things are required to be collected.

9. As per the present First Information Report, it is stated that four persons had forcibly entered in the house of the informant and they were assaulting the husband of the informant. While so assaulting him, they had taken him from the ground floor to the first floor and at that place also husband of

the informant was severely assaulted and then those persons left. At this stage, if we consider the post-mortem report, which is in respect of post-mortem that has been conducted between 5.45 p.m. to 7.30 p.m. on the same date i.e. 5th September 2021, Column No.17 gives only one injury mark i.e. ligature mark around neck above the level of thyroid cartilage in the form of reddish brown, grooved and parchmented pressure abrasion. The neck dissection shows evidence of hemorrhages. As regards the internal examination is concerned, it was found that there was hemorrhage in left temporalis muscle in the head. Except these injuries, nothing else is mentioned and the probable cause of death is stated to be "ligature compression over neck". Meaning thereby, there were no signs of severe beating on the body of the deceased Lakhansing Rajput.

9. The statement of daughter-in-law of the informant taken on the next date would state that there was dispute between a lady and deceased Lakhansing and then she states that the lady had returned along with Chaya and her four brothers. She is not stating that 40 to 50 persons had come. After they had abused, the daughter-in-law states that she along with her co-sister and three children were put in a room and their room was latched

from the outside. She states that those persons who had come, had assaulted the parents-in-law and husband Naresh and they went away. She then states that when her husband and parents-in-law were proceeding to police station to lodge the report, the mother-in-law told father-in-law that he should rest in the house but father-in-law was not in a mood to listen. She then states that her husband as well as father-in-law had gone to the Police Station and thereafter they went to the hospital and came back. She further states that after a while she had realized that her father-in-law had committed suicide. This statement is also speaking for itself.

10. Another fact which could be revealed from the police papers that when police had made further inquiry, the Investigating Officer had issued notice to the son of the informant on 31st October 2021, which states that it was his say that Vivo Company Mobile has been found. That means it was the say of Nareshkumar Lakhansing Rajput that Vivo Company Mobile which allegedly went missing in the incident, was found by him, may be in the house itself. By this notice he was asked to produce the bills in respect of other articles.

11. Though the investigation is going on, taking into consideration the allegations made and the fact that the inquiry under Section 174 of the Code of Criminal Procedure is still going on, that fact cannot be considered here in this case and therefore, case is made out to grant anticipatory bail to the applicants. This Court, by order dated 7th October 2021 had already granted interim protection to the applicants which deserves to be confirmed. Accordingly, following order is passed:

ORDER

- i) Application stands allowed.
- ii) The interim protection granted the the applicants by this Court by order dated 7th October 2021 stands confirmed. It is clarified that in the event of arrest of the applicant No.1 - Ranjana Babasaheb Kharat, applicant No.2 - Chaya W/o Sanjay Jadhav, applicant No.3 - Chandramani S/o Appasaheb Salve, applicant No.4 - Siddharth Anna Salve, applicant No.5 - Babasaheb S/o Bhagwan Kharat, applicant No.6 - Nagesh Raosaheb Salve, applicant No.7 - Prakash Raosaheb Salve and applicant No.8 - Akash Raosaheb Salve, in connection with

Crime No. 626 of 2021 registered with CIDCO Police Station, Aurangabad for the offence punishable under Sections 143, 147, 149, 452, 324, 323, 504, 506 of the Indian Penal Code, they be released on bail on PR Bond of Rs.30,000/- (Rupees Thirty Thousand) each with two solvent sureties of Rs.15,000/- (Fifteen Thousand) each.

iii) The applicants shall remain present before the Investigating Officer as and when called and co-operate with the investigation.

iv) The applicants shall not tamper with the evidence of the prosecution in any manner.

v) Criminal Application No.2335 of 2021 stands disposed of.

[SMT. VIBHA KANKANWADI , J.]