

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

**ANTICIPATORY BAIL APPLICATION NO. 1503 OF 2022**

Narendra Gopal Sable ...Applicant

Versus

The State of Maharashtra & Another ...Respondents

**ALONG WITH**  
**ANTICIPATORY BAIL APPLICATION NO. 1513 OF 2022**

Prakash Rambhau Nimse ...Applicant

Versus

The State of Maharashtra ...Respondent

**ALONG WITH**  
**ANTICIPATORY BAIL APPLICATION NO. 1514 OF 2022**

Ashwini Vasant Raut ...Applicant

Versus

The State of Maharashtra ...Respondent

**ALONG WITH**  
**ANTICIPATORY BAIL APPLICATION NO. 1534 OF 2022**

Shivaji Mahadev Funde ...Applicant

Versus

The State of Maharashtra & Another ...Respondents

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Mr. V.D. Sapkal, Senior Advocate i/by. Mr. A.B Jagtap, for the applicant in Application No. 1503/2022.

Mr. Y.R. Neb, Advocate for the applicant in Application No. 1513/2022.

Mr. A.B. Kale, Advocate for the applicant in Application No. 1514/2022.

Mr. A.K. Bhosle, Advocate for the applicant in Application No. 1534/2022.

Mr. P.K. Lakhotiya, APP for respondent - State

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**RESERVED ON: 5<sup>th</sup> DECEMBER, 2022**

**PRONOUNCED ON: 16<sup>th</sup> DECEMBER, 2022**

**ORDER :**

1. The applicants in the present applications are Assistant Police Inspector, Assistant Sub Inspector, Lady Police Constable and Head Clerk, respectively., (for short 'API', 'ASI' and 'LPC' respectively). The applicants apprehend their arrest in Crime No. 944 of 2022, registered with Rahuri Police Station, Ahmednagar for the offences punishable under sections 306, 385 read with 34 of the Indian Penal Code.

2. First Information Report is lodged by Premkumar Bhausaheb Aghav alleging that his father Bhausaheb was serving as police head constable and was attached to police headquarter, Ahmednagar. He received suicide note of his father Bhausaheb Aghav on whatsapp wherein it is mentioned that while Bhausaheb was on bandobast duty, ASI met him and scolded him that as he has closed all the illegal business at village Shendi, his income was ruined. API, ASI and LPC by joining

hands registered false complaint against him. ASI demanded Rs. 10,00,000/- from him for securing acquittal in the offence registered against him. Rupees 5,00,000/- was to be paid to API, Rs. 2,00,000/- to ASI and Rs. 3,00,000/- to LPC. Rupees 1,00,000/- was demanded for head clerk, who would facilitate his exoneration from departmental inquiry. It is mentioned in the suicide note that being fed up with ill treatment and harassment by accused persons he was committing suicide. Accordingly, crime is registered against the applicants.

3. Heard Mr. V.D. Sapkal, Senior Advocate, Mr. A.K. Bhosle Mr. Y.R. Neb, Mr. A.B. Kale, advocates for the applicants, and Mr. P.K. Lakhotiya, Additional Public Prosecutor for respondents. Perused the investigation papers.

4. It is a matter of record that LPC complained to API about harassment and outraging her modesty by deceased Bhausaheb on 30.05.2021. She further alleged that said act was repeated by him on 01.06.2021. Statement of deceased Bhausaheb was recorded in this behalf and he admitted that he committed mistake on 01.06.2021 and assured that such mistake would not be repeated and he will not trouble LPC till he is at Rajur. On 02.06.2021, deceased Bhausaheb was transferred

to Sangamner Police Station by the Sub Divisional Police Officer, Sangamner.

5. At the instance of LPC, Crime No. 85/2021 is registered with Rajur Police Station on 05.06.2021, for the offences punishable under sections 354, 354-A and 506 of IPC against deceased Bhausahab.

6. On 07.06.2021, Additional Superintendent of Police, Shrirampur issued a show cause notice to API as to why timely information about the incident alleged by LPC was not given to his office, and why no legal action is taken against deceased Bhausahab in spite of registration of crime. In the said communication there is a reference of threat given by deceased Bhausahab that he will commit suicide.

7. A departmental inquiry was held in respect of complaint of LPC and on conclusion of same, deceased Bhausahab was removed from service by order dated 08.08.2022. Surprisingly, in spite of issuance of removal order, deceased Bhausahab was permitted to discharge duty till 01.10.2022, when he committed suicide.

8. Possibility cannot be ruled out that because of frustration of his removal from service he has taken extreme step of committing suicide.

9. Learned Additional Public Prosecutor vehemently submitted that suicide note is sufficient to show the involvement of applicants in the present crime. This submission cannot be accepted in view of legal position settled by catena of decisions of Hon'ble Apex Court and by this Court wherein it is held that, so as to make out offence under section 306 of IPC, ingredients of abetment by instigation or by intentional aid must be available on record.

10. Prima facie, there is no material on record to show that applicants have abetted suicide of deceased Bhausahab in any manner, either by instigation or by intentional aid.

11. Suicide note and other documents in the present crime are already seized by the investigating agency. Nothing is to be recovered from the applicants. The applicants are permanent government servants and they are not likely to abscond and they will be available for trial. In the peculiar facts of the present case, pre-trial custodial detention of the applicants is not

necessary. The applications therefore deserve to be allowed.

Hence, the following order:

**ORDER**

- i) The applications are allowed.
- ii) In the event of arrest of applicants in connection with Crime No. 944 of 2022 registered with Rahuri Police Station, Ahmednagar, for the offences punishable under sections 306, 385 read with 34 of the Indian Penal Code, they shall be released on executing P.B. and S.B of Rs. 25,000/- each with one surety each in the like amount.
- iii) The applicants shall attend the concerned police station as and when called by the investigating officer and co-operate in the investigation. The applicants shall not tamper the prosecution evidence.

**[NITIN B. SURYAWANSHI, J.]**