

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 ANTICIPATORY BAIL APPLICATION NO.1519 OF 2021

1. NAMDEO BALAJI SONTAKKE
2. KANTABAI W/O BALAJI SONTAKKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Rathi Swapnil S.
APP for Respondent – State : Mr. A. M. Phule
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 19.01.2022

ORDER :-

1. Heard learned Advocate for the applicants and learned APP for the respondent – State.

2. The applicants are apprehending their arrest in connection with Crime No.230 of 2021 registered with Kurunda Police Station, Dist. Hingoli for the offences punishable under Section 306 read with 34 of Indian Penal Code.

3. Perusal of the FIR lodged by one Satwaji Namdeo Sontakke, who is the father of deceased Ankush would show that applicant No.1 is his nephew and applicant No.2 is his sister-in-law (brother's wife). Informant has separate agricultural land and the agricultural land of the

applicants appear to be separate. Informant states that applicant No.1 had made encroachment to the extent of 10 feet on his land about a year ago and had constructed a house. Thereafter, there was dispute between Ankush and applicant No.1 and applicant No.1 had assaulted Ankush. The informant also states that there was dispute between Ankush and applicant No.2 when applicant No.2 had taken water canal through the land of informant. Applicant No.2 had rushed towards Ankush to assault him with scythe. According to the informant, the applicants used to give threats to Ankush, but Ankush has not lodged any report with the police under the fear that he would be more harassed, if he lodges the report. Then the informant states that on 22.11.2021, Ankush went to field at about 9.00 a.m. He states that there was assault by the applicants to Ankush as applicant No.1 was not allowing Ankush to transport sugarcane from his field, but thereafter around 12.30 p.m., Ankush had sent a chit on the Whats App of his wife and grandson of the informant stating that he is committing suicide. Informant then went to the field and found that Ankush had hanged himself and he could find the suicide note with the grandson Rohidas Kubde. Thereafter, the FIR has been lodged. Perusal of the disputed suicide note from the police papers would show that apart from the statement that construction was made by applicant No.1 forcibly and

assault by both the applicants, resistance for transportation of sugarcane and also the assault, it is stated that Ankush committed suicide due to the threat to kill given by the applicants.

4. Nothing is to be recovered at the instance of the present applicants in view of the fact that already the panchanama of the spot has been carried out and the postmortem has been done. The postmortem report shows the cause of death is, death due to asphyxia due to hanging. Now, the question is as to whether whatever has been stated in the suicide note amounts to abetment. What has been stated is, due to the fear of alleged threat to kill, he committed suicide. The connection tried to be established is of the cause which is more than four years as regards applicant No.2 and as regards applicant No.1, it is since about a year. It is to be noted that if such threats were given, encroachment was made, Ankush was allegedly assaulted, then he could have approached police. But, according to the informant, he preferred not to approach police on the assumption that he would be harassed more, if he lodges any report. As regards the ingredients that are required to be considered under Sections 107 and 306 of Indian Penal Code, there is no scope for ifs and buts or predictions and fear. Therefore, taking into consideration the contents of the suicide note also when the physical custody of the applicants is not necessary for the

investigation and in their absence also the investigation can progress, so also, the applicants have permanent place of abode, there is no criminal antecedents as well as their presence can be secured at the time of trial, they deserve to be released on bail. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) The ad-interim protection, granted by this Court earlier to the applicants vide order dated 15.12.2021, is hereby confirmed and made absolute. In other words, in the event of arrest of applicants viz. 1. Namdeo Balaji Sontakke and 2. Kantabai w/o Balaji Sontakke, in connection with Crime No.230 of 2021 registered with Kurunda Police Station, Dist. Hingoli for the offence punishable under Section 306 of Indian Penal Code, they be released on P. R. Bond of Rs.20,000/- with one or more sureties in the like amount.
- III) Applicant No.1 shall attend the concerned police station on every Monday and Thursday between 11.00 a.m. to 2.00 p.m. till filing of charge-sheet.
- IV) The applicants shall not tamper with the evidence of the prosecution in any manner.
- V) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm