

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

27 ANTICIPATORY BAIL APPLICATION NO.1580 OF 2021

PATING @ PAINGRAO MARUTI JAMDAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Shaikh Mazhar A. Jahagirdar, Advocate for applicants

Mr. N.T. Bhagat, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 17th JANUARY, 2022

PER COURT :

1 The applicants are apprehending their arrest in connection with Crime No.722/2021 dated 27.11.2021 registered with Karjat Police Station, Dist. Ahmednagar, for the offence punishable under Section 306, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. Shaikh Mazhar A. Jahagirdar for the applicants and learned APP Mr. N.T. Bhagat for the respondent. In order to cut short it can be said that they have argued in support of their respective contentions.

3 The First Information Report has been lodged by one Subhash Mhalaji Kharat, who is the brother of deceased Sharad. Sharad committed suicide by hanging around 6.00 p.m. on 25.11.2021. The informant after the last rites were performed filed the First Information Report and submits that deceased got married before 13 years ago and on 19.11.2021 the informant had talked to the deceased after he found Sharad uncomfortable. Sharad informed him while crying that his marital life is not good. It was stated that his wife had illicit relations with the applicant No.1 since more than five years and the applicant No.2 was helping them. Sharad had tried to pacify the wife, however, she used to pick up quarrels with him. Sharad also told the informant that whenever he used to give advice to his wife, at that time, present applicants and co-accused Ashabee used to abuse him and used to give threats to kill. Thereafter, Sharad's wife used to go out of the house under the pretext of duty. He also came to know that his wife has performed marriage with co-accused Gopal in a temple and she was residing in a rented premises with Gopal. Then, it was informed by Sharad to the informant that Sharad along with his brother-in-laws went to Sharad's wife and after advising her she was brought back. After hearing this the informant had given advice to Sharad's wife and went to Mumbai where he used to work and then he says that due to the illicit relations of the wife Sharad committed suicide. Taking into consideration the allegations the physical custody of the

applicants may not be required.

4 It appears that the police in their say before the learned Additional Sessions Judge sought physical custody of the applicants on the ground that they are absconding and also that the applicant No.1 has made some obscene record of accused No.5 i.e. the wife of deceased. It is to be noted that she has not made a complaint and she is also an accused. Therefore, this ground is not justifiable. Basically, whatever has been stated in the First Information Report, whether it amounts to instigation under Section 107 read with Section 306 of the Indian Penal Code, itself is a question. Therefore, the interim protection granted earlier by this Court on 22.12.2021 deserves to be confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicants vide order dated 22.12.2021, is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of the applicants viz. Pating @ Paingrao Maruti Jamdar and Lala @ Hiralal Vishvnath Kharade, in connection with Crime No.722/2021 dated 27.11.2021 registered with Karjat Police Station, Dist. Ahmednagar, for

the offence punishable under Section 306, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.20,000/- (Rupees Twenty Thousand only) each with two solvent sureties, each, in the like amount.

3 The applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner.

4 They should cooperate with the investigation and shall attend the concerned Police Station as and when called by the Investigating Officer.

(Smt. Vibha Kankanwadi, J.)

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