

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

920 ANTICIPATORY BAIL APPLICATION NO.1587 OF 2021

NAGORAO RAMA DUDALWAD

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. H.F. Pawar, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

...

WITH

ANTICIPATORY BAIL APPLICATION NO.1498 OF 2021

KERBA NAGOJI JETEWAD

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. H.F. Pawar, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 14th JANUARY, 2022

ORDER :

1 The accused persons are apprehending their arrest in connection

with Crime No.221/2021 dated 04.11.2021 registered with Usman Nagar Police Station, Tq. Kandhar, Dist. Nanded, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. H.F. Pawar for the applicant as well as learned APP Mr. A.M. Phule for the respondent, in both applications. In order to cut short it can be said that they have argued in support of their respective contentions.

3 Applicant in Anticipatory Bail Application No.1587 of 2021 is the father-in-law of deceased Vilas Dagdu Totewad and applicant in Anticipatory Bail Application No.1498 of 2021 is uncle of wife of deceased Vilas. The First Information Report has been lodged by Dagdu Digambar Totewad, who is the father of deceased Vilas. He submits that deceased got married with one Madhuri Nagorao Dudalwad in the year 2015. After marriage deceased was residing separately. Deceased has two sons. Initially, deceased and his wife lived happily for about 3-4 years. Thereafter, they used to quarrel on trifling matters. Vilas was serving as driver and since the Finance Company has taken away his tempo due to non payment of installment, he was unemployed. In the year 2020 due to spread of corona pandemic informant and his wife went to reside to their native place at Mangalsangvi. Elder son

of deceased Mukundraj was also with informant. Therefore, occasionally deceased used to visit his parents and used to tell his mother that his wife does not live with him and troubling him. Deceased also told to his mother that his in-laws used to assault him. In the year 2021 during Ganesh festival his in-laws called him at their house and father-in-law, mother-in-law, sister-in-law, brother-in-law assaulted the deceased. After 15 days, again deceased told his parents that his wife, father-in-law, sister-in-law, brother-in-law, friend of mother-in-law Aasma, uncle of his wife and friend of his brother-in-law assaulted the deceased. Since then he was under tension. Deceased always used to tell that his wife used to wander with others and when he used to try to convince her, her parents used to assault the deceased. On 22.10.2021 when informant and his wife came from labour work, they came to know that their son deceased Vilas has drunk poisonous substance. Then they took the deceased to Government Hospital, Nanded for treatment. Informant's relatives told to wife of deceased about this incident but she informed that she would not come. On 03.11.2021 at about 8.30 deceased died during treatment.

4 From the contents of the First Information Report it can be seen that Vilas, who was the son of the informant, was serving as driver and had taken tempo on loan. However, that tempo was taken away by the Finance

Company, due to non payment of installment and, therefore, he was unemployed. There was dispute between him and his wife and he was not satisfied with the same. His wife was refusing to accompany him and then the informant says that Vilas used to convey to him that whenever he used to go to Nagorao's house, his wife used to refuse to accompany him and then his wife, sister-in-law, brother-in-law, Nagorao, mother-in-law's friend and wife's uncle i.e. applicant in Anticipatory Bail Application No.1498 of 2021 as well as friend of brother-in-law of Vilas used to assault him. It is to be noted that Vilas has not made any complaint against anybody and then whether alleged assault by these persons would amount to instigation to Vilas to commit suicide, is a question. He may be under tension because of such behaviour of the wife and her relatives, if we want to believe the First Information Report as it is. However, whether to extend it to the interpretation with it amounts to instigation or abetment will have to be tested at the time of trial and for that purpose the physical custody of the applicants may not be required. The prosecution is also relying upon the alleged suicide note, which states that the wife and other accused persons had tried to kill Vilas and, therefore, he is committing suicide. Interestingly, it has also been stated that those persons should not be released on anticipatory bail and the phone numbers of the persons who had assaulted him are given. The suicide note as it is appears to be cryptic. The police papers show that substantial investigation is over and,

therefore, the applicants, who are mere relatives of the wife, need not be sent behind the bars. Therefore, they deserve to be released on bail. Hence, following order.

ORDER

- 1 Both applications stand allowed.
- 2 In the event of arrest of the applicant viz. **Nagorao Rama Dudalwad** in Anticipatory Bail Application No.1587 of 2021, in connection with Crime No.221/2021 dated 04.11.2021 registered with Usman Nagar Police Station, Tq. Kandhar, Dist. Nanded, for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code, 1860, he be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.
- 3 The ad-interim protection, granted by this Court earlier to applicant viz. **Kerba Nagoji Jetewad** in Anticipatory Bail Application No.1498 of 2021 vide order dated 10.12.2021, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant viz. Kerba Nagoji Jetewad, in connection with Crime No.221/2021 dated 04.11.2021 registered with Usman Nagar Police Station, Tq. Kandhar, Dist. Nanded, for the offence punishable under Section

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

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

5 They should cooperate with the investigation and shall attend the Usman Nagar Police Station, Dist. Nanded on every Thursday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

agd