

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1171 OF 2023
WITH ABA/1095/2023

GANESH ABHIMAN GARJE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants in ABA/1171/2023 : Mr. A. R.
Hange

Advocate for Applicant in ABA/1095/2023: Mr. P. A.
Bharat

APP for Respondents: Mr. V. S. Badakh

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 04, 2023

COMMON ORDER :

1. Applicants apprehend arrest in connection with with C.R. No. 38 of 2023 registered with Amalner Police Station, Tq. Patoda, Dist. Beed for the offences punishable under Sections 305, 306, 323, 506 read with Section 34 of the Indian Penal Code.

2. Father of deceased (aged about 16 years) lodged report stating that deceased Tejas used to like one girl and this was informed by him to them. It is stated that family members of the said girl were also aware about the said relationship. It is alleged that on 06.03.2023 Applicants along with co-accused came to

the house of informant and assaulted him with fist and kick blows by alleging against him as to why he has fuble eye on the girl. Similarly, an incident occurred on 13.03.2023 wherein on allegation that accused caused harassment to said girl and that he was threatened to be beaten if he talks her. On the next day, Tejas was found dead as he committed suicide by hanging himself to the tree in the agricultural field.

3. Learned Counsel for the Applicants submits that message sent by the deceased to his father does not indicate about any harassment being caused by the Applicants to deceased which has instigated him to commit suicide. It is submitted that the suicide seems to have committed as the deceased did not know whether said girl likes him or not and that one of the Applicant likes her.

4. Learned APP opposed the said submissions by drawing attention of the Court to the statements of witnesses who claims to have seen the Applicants abusing and assaulting deceased on 06.03.2023. It is further submitted that there are statements of witnesses which indicate that on 13.03.2023 also

threats were given to the deceased if he talks to said girl.

5. Though it is alleged in the FIR that on 06.03.2023 some incident had occurred wherein the deceased was abused and threatened by the Applicants, however, no report was lodged in this regard with the police. Apart from this, message sent by the deceased to his father before committing suicide also does not indicate occurrence of any such incident. It is not stated therein that any one had abused or assaulted him on 06.03.2023 or any time thereafter. The said message sent by deceased to his father only indicates that he used to like the a girl but was not sure whether she likes him or not. It is also stated that one of the Applicant likes her. Though, there is a mention of name of Applicants herein in the said message, however, for want of any specific allegation nothing is attributable against them to show that they aided, abetted or instigated commission of suicide by deceased.

6. Considering the fact that there was no immediate report of alleged incident of 06.03.2023 and as there is nothing from the message of deceased to

show any act being committed by the Applicants, on the basis of sole statement that they are at fault, offence cannot get attracted against them. There is possibility of deceased committing suicide being dejected by situation that he does not know she likes him or not and one of the Applicant likes her. Having regard to overall facts of case, *prima facie* it is difficult to hold that Applicants committed any act intending to instigate the deceased to commit suicide.

7. In such circumstances, the liberty of the Applicants against whom there are no criminal antecedents deserves to be protected. Hence, applications are allowed by confirming order dated 21st July, 2023.

(R.M. JOSHI, J.)

Malani