

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

CRIMINAL APPEAL NO.657 OF 2023

- | | |
|--------------------------------|----------------|
| 1. Gajanan Vitthalrao Patange | |
| 2. Vaibhav s/o Gajanan Patange | ... APPELLANTS |

VERSUS

- | | |
|--|-----------------|
| 1. The State of Maharashtra
Through Police Inspector,
Akhada Balapur Police Station, Hingoli | |
| 2. Sumanbai Tukaram Dakhore | ... RESPONDENTS |

Mr. S. S. Deshmukh, Advocate for the appellants
Mr. S. P. Sonpawale, APP for the respondent/State
Mr. Prashant Nagargoje, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.
DATE : 5th SEPTEMBER, 2023

P.C. :-

1. Heard.
2. Appellants being aggrieved by the rejection of application for anticipatory bail in connection with Crime No. 393/2023 registered with Akahda Balapur Police Station, District Hingoli for the offences punishable under Sections 306, 506, 507, 307 read with 34 of IPC and under Sections 3(1)(r), 3(2), 3(V) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for short 'Atrocities Act') have preferred this appeal under Section 14-A of the Atrocities Act.

3. The first informant reported to the police stating that her grand daughter had medical issues and for the purpose of surgery she was taken by her son Omkar to Shirdi. It is alleged on 21/06/2023 when she along with her husband where at home at around 10 pm phone call was received from Gajanan stating that he has brought Omkar from Shirdi and that he further threatened her not to come agricultural field. He also stated that she was abused over her caste. On the next day it was found that Omkar committed suicide in the agricultural field of Gajanan at Waranga.

4. Learned counsel for the applicants submits that perusal of the first information report does not disclose any reason for which applicants had any intention to instigate or aid the deceased to commit suicide. It is stated that there is a vague statement made in the first information report about the deceased being harassed for some reason and being fed up of the same he committed suicide.

5. Learned APP and learned counsel for the informant opposed the said contention. It is the contention of the learned counsel for the informant that there is specific allegation against the applicants in respect of the incident occurred on 21/06/2023 which attracts the provisions of Atrocities Act. It is submitted that the applicants have sought to make out a false ground before the Addl. Judge stating that

wife of the deceased had filed an application to police on 23/06/2023 alleging that the informant and her husband used to torture deceased and he committed suicide. It is submitted that after the death of deceased Ombkar his wife is missing. On these submissions, appeal is opposed.

6. For the purpose of attracting provisions of Section 306 of IPC there has to be material against the appellants indicating that they were intending to drive the deceased to commit suicide. There must be some averment or evidence to show that in order to achieve the said object any positive act has been done by them. In the instant case even accepting the first information report as it is it only discloses against them that they brought the deceased from Shirdi though his daughter was taking treatment there. Except this there is nothing on record to indicate any harassment being caused by the appellants to the deceased which would have led him to commit suicide.

7. Perusal of the investigation papers show that the statement of the wife of deceased was recorded wherein she candidly states about no harassment being caused by the appellants herein to the deceased. No doubt there are statements of brother and father of the deceased on the line of first informant, however, they also do not claim any personal knowledge about the same. It is only claimed that they suspect the

harassment caused by the applicants.

8. In considered view of this of Court, in absence of any *prima facie* evidence to indicate as to the cause any positive act done by the present applicants which led to the act of commission of suicide, liberty of the appellants deserves protection. For want of any offence being made out under Atrocities Act, bar of Section 18 does not apply. There are no criminal antecedents against appellants. It is not case of custodial interrogation. In view of this, appeal is allowed in terms of interim order dated 27th July, 2023. The impugned order dated 15/07/2023 quashed and set aside.

(R. M. JOSHI, J.)

ssp