

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

ANTICIPATORY BAIL APPLICATION NO.1291 OF 2023

ABHISHEK CHANDRAKANT BHALERAO
VERSUS
THE COMMISSIONER OF POLICE AND ANOTHER

WITH
ANTICIPATORY BAIL APPLICATION NO.1303 OF 2023

KALPANA UDAY KULKARNI @
KALPANA VIDYASAGAR KORATKAR
VERSUS
THE COMMISSIONER OF POLICE AND ANOTHER

WITH
ANTICIPATORY BAIL APPLICATION NO.1204 OF 2023

SWAPNA UDAY KULKARNI@
SWAPNA VARUN PATIL
VERSUS
THE COMMISSIONER OF POLICE AND ANOTHER

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Advocate for Applicants : Mr. A. R. Borulkar
APP for Respondents: Mr. S. W. Munde

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 21, 2023

COMMON ORDER :

1. Applicants apprehend arrest in connection with with C.R. No. 301 of 2023 registered with MIDC CIDCO Police Station, Dist. Aurangabad for the offences punishable under Sections 306, 504 read with Section 34 of the Indian Penal Code.

2. First informant is the wife of deceased, who committed suicide on 28.06.2023 by hanging himself in the house. It is the contention of informant that she along with her family is residing at plot no. 20, sector A, N-1, CIDCO for last 30 years. It is her contention that her husband and Kalpana had purchased the said plot from CIDCO in the year 1991 and thereafter on half portion of the land informant carried out construction. At that time, permission was sought from the Kalpana for the purpose of construction of common wall and only thereafter common wall it was constructed in the year 1997. It is alleged that Kalpana in the year 2021 without obtaining permission from the informant had started construction in the remaining portion of the plot. At that time, damage was caused to the structure of the informant. In this connection, on 28.06.2023 when she along with her husband went to the house of Kalpana, at that time Kalpana, her married daughters and one son-in-law have abused husband of the informant and his mother. Her husband felt insulted. Due to this, he was under mental stress for 8 days which has resulted into commission of suicide by him. It is further stated that a chit was

found to have been left behind by the deceased stating that Applicants herein have demolished parapit wall on 28.06.2023 and abused his mother and therefore, he is committing suicide.

3. Learned Counsel for the Applicants states that there are disputes between the parties and in this connection Applicants have filed suit against deceased directing him to execute lease deed in her favour. It is submitted that though deceased failed to execute said lease deed, which was ultimately required to be executed through Court Commissioner. Even if it is accepted that the incident in question has occurred on 20.06.2023 of hurling abuses, the same cannot be considered to be instigation or abetment to the act of commission of suicide by the deceased. It is further contended that the incident has occurred on 20.06.2023 whereas the suicide is committed on 28.06.2023 and, therefore, it cannot be said that there is any nexus in terms of proximity in time between the incidents.

4. Learned APP opposed the application by contending that suicide note left behind by the deceased clearly shows the reason for commission of

suicide is abuses hurled against his mother. Similarly, it is stated that the Applicants are causing trouble to him for last many years. He has drawn attention of the Court to the statements of neighbouring witnesses who had tried to intervene into the dispute between the parties unsuccessfully.

5. In order to attract offence punishable under Section 306 of IPC there has to be material on record to indicate that the accused had intention to drive deceased to commit suicide and for that purpose he has aided or instigated the deceased. As far as present case is concerned, admittedly there are disputes between the parties which has also resulted into civil litigation which was decided in favour of Applicants side. FIR refers to the isolated incident of 20.06.2023 wherein Applicants claims to have abused deceased and his mother. There cannot be any justification of abusing or insulting to anyone, however, this isolated incident could not be construed as instigation or abetment for deceased to commit suicide. Most pertinently, after 8 days of occurrence of incident of abuses deceased has committed suicide. Thus, there is

some substance in the contention of Counsel for Applicants about there may not be causal connection between two incidents having regard to time lapsed in between. Mere reference of the Applicants in his suicidal note *per se* will not be sufficient to attract offence punishable under Section 306 of IPC against them in view of long pending disputes between parties and a litigation also being lost by the deceased initiated at instance of Applicants. Deceased having grievance/grudge against them is obvious and which might have reflected in suicidal note. Having regard to facts and circumstances, mere reference of their name in the suicidal note will not be sufficient to deny the anticipatory bail to the Applicants. Nothing is to be recovered at their instance. There are not criminal antecedents and they are not likely to flee from justice.

6. In view of above, applications are allowed by confirming order dated 25th July, 2023 and 04th August, 2023.

(R.M. JOSHI, J.)