

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

**BAIL APPLICATION NO. 1475 OF 2023
WITH CRIMINAL APPLICATION NO.3245 OF 2023**

1. Sunny Sandip Misal
2. Sachin Jalindar Shelake
3. Aniket Yosef Takwale
4. Pradip Annasaheb Magare
5. Tushar Santosh Sasane
6. Gaurav Ramesh Takwale
7. Rushikesh Machindra Shelake
8. Swapnil Ramesh Misal
9. Sagar Ramesh Misal
10. Avinash Raju Misal

... Applicants

Versus

The State of Maharashtra

... Respondent

...

Ms. S. G. Sonawane, Advocate for the Applicants

Mr. K. S. Patil, APP for the Respondent/State

Mr. R. V. Gore, Advocate for the Informant

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 08.09.2023

PER COURT :

1. Heard the learned Advocate for the applicants, learned Advocate for the informant and learned APP for the respondent/State.
2. At the outset, learned Advocate appearing for applicants, on instructions, submits that she will not press the application for applicant no.1 – Sunnay Sandip Misal , applicant no.3 - Aniket Yosef Takwale and applicant no.5 - Tushar Santosh Sasane. However, she submits that application to the extent of other applicants may be considered on merit.

In that view of the matter, the application to the extent of applicant nos.1, 3 and 5 is dismissed as withdrawn with liberty to move afresh application after filing of charge-sheet.

3. The applicants nos.2, 4, 6 to 10 are seeking regular bail in connection with Crime No.177/2023 registered with MIDC Paithan Police Station, Tq. Paithan, Dist. Aurangabad for the offences punishable under Sections 306, 143, 147, 148, 149, 452, 427, 323, 504 and 506 of the Indian Penal Code [for short 'IPC']
4. The investigation was set in motion on the information given by one Goraknath Gangadhar Bobade. It is stated that, on 19/07/2023, his son – Mahesh were fixing the flex banners to celebrate the birthday of the Taluka president of a political party. At the relevant time, accused – Aniket arrived at the spot and abused the deceased – Mahesh making allegations that he has intentionally removed the banner of the national leader and caused insult. It is further alleged that in the evening, the

accused persons arrived at the resident of the informant and they abused and forced the informant and his son to bow down and tender apology by touching feet. Some of the accused persons dragged them to the public place and publicly insulted. It is further alleged that because of such act, son of the informant lost his honour and committed suicide. It is also alleged that a video graph of the aforesaid incident was made viral, by which, the informant and his son were humiliated. In pursuance of the aforesaid information, Crime No.177/2023 came to be registered with MIDC Paithan Police Station, Tq. Paithan, Dist. Aurangabad for the offences punishable under Sections 306, 143, 147, 148, 149, 452, 427, 323, 504 and 506 of IPC. The applicants are arrested in pursuance of the registration of aforesaid crime. Their plea for grant of bail has been rejected by the Sessions Court vide order dated 07/08/2023.

5. Ms. Sunita Sonwane, learned Advocate appearing for the applicants would submit that the applicants are young aged persons and never intended that the deceased shall commit a suicide. There was some dispute regarding fixing of the banners and quarrel was carried forward, wherein, there was exchange of abuses with allegation of causing damage to household articles at the house of the informant. She would submit that in any case, the applicants cannot be attributed with the offence of abatement to commit suicide. It is submitted that applicants are behind the bars for more than 45 days. There is nothing to recover from the applicants. The investigation is practically over. The alleged video could not be traced out. She would therefore urge to enlarge on bail.

6. Learned APP as well as Mr. Gore, learned Advocate appearing for the informant oppose the application. They would submit that magnitude of the act and the manner of its execution itself is sufficient to infer that the deceased was abetted to commit suicide. It is pointed out that the deceased and his father was dragged to a public place by the mob and they were insulted in public. Further the said act was video graphed and made viral. Immediately thereafter, the deceased committed suicide. They would submit that the aforesaid sequence of event would show that there is direct nexus between suicide of the deceased and act of the accused persons. Hence, they urge to dismiss the application.
7. Having considered the submissions advanced, apparently, FIR indicates specific role against few accused persons. However, the general allegations are made against the present applicant. On careful scrutiny of FIR, it can be seen that, there are specific attributions against accused nos.1, 3 and 5, whose bail applications are withdrawn and disposed of. So far as remaining accused persons are concerned, although their presence is noted at the time of incident, except allegations regarding hurling abuses to the informant and his son, no further role is attributed. Whether their act itself would constitute the abatement within the meaning of Section 109 of IPC, it would be a matter of trial. However, considering the age of the applicants and limited role attributed against them, further detention of the applicants would not be necessary. The release of the applicants shall be subject to stringent conditions looking to the nature of offence. Hence, the following order:

ORDER

- (i) Bail Application is allowed to the extent of applicant nos.2, 4 and 6 to 10.
- (ii) The applicant nos.2, 4 and 6 to 10, namely, (2) Sachin Jalindar Shelake, (4) Pradip Annasaheb Magare, (6) Gaurav Ramesh Takwale (7) Rushikesh Machindra Shelake, (8) Swapnil Ramesh Misal, (9) Sagar Ramesh Misal and (10) Avinash Raju Misal be released on bail in connection with Crime No.177/2023 registered with MIDC Paithan Police Station, Tq. Paithan, Dist. Aurangabad for the offences punishable under Sections 306, 143, 147, 148, 149, 452, 427, 323, 504 and 506 of the Indian Penal Code on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand only) each on the following conditions:
- a. The applicants shall visit MIDC Paithan Police Station once in a week i.e. on every Friday between 10:00 am to 2:00 pm.
 - b. They shall not establish contact with any of the witnesses.
 - c. They shall not tamper with the prosecution evidence in any manner.
 - d. They shall co-operate with the investigation.
 - e. They shall not indulge in similar activity.
 - f. They shall not enter in Taluka Paithan till filing of charge-sheet except to attend police station once in a week as indicated in clause no. (a) of this order.
- (iii) Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE