

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.337 OF 2023

Ravi Chavan Alias
Ravindra Ramchandra Chavan & Anr. ... Applicants
V/s.
The State of Maharashtra ... Respondent

Mr. Purushottam G. Chavan for the applicants.

Mr. Amit A. Palkar, APP for the State.

Mr. P.D. Sarowar, PSI, Manmad Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 6, 2023

P.C.:

1. This is an application under Section 438 of the Criminal Procedure Code, 1973 in connection with C.R. No.371 of 2022 registered with Manmad Police Station, Manmad, District Nashik for offences punishable under Sections 306, 323, 504, 506 read with 34 of the Indian Penal Code.

2. First information report was lodged by the brother of the deceased alleging that the wife of deceased told informant that applicant nos.1 and 2 along with other co-accused had taken deceased with them for work of cutting sugarcane at Solapur. On 4 November 2022, deceased made phone call to his father and informed that accused nos.1 to 3 had assaulted him and there was

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danger to his life. The deceased asked him to register report against the accused persons. While he was proceeding towards lodging first information report against the accused persons, he received phone call from Manmad Police Station asking him to identify a body of a person, which ultimately found to be that of his brother.

3. It is alleged that on 7 November 2022, one Bajirao Walvi, a person who accompanied the deceased for cutting sugarcane told the informant that on 31 October 2022 accused nos.1 to 3 assaulted the deceased. He along with deceased ran away. Therefore, according to the prosecution, deceased committed suicide due to harassment on the part of accused nos.1 to 3.

4. The applicants, therefore, approached learned Sessions Court, which rejected the application under Section 439 of the Criminal Procedure Code, 1973. Aggrieved thereby, the applicants have filed present anticipatory bail application.

5. Learned advocate for the applicants invited my attention to the material on record and the statement of witnesses. According to him, the approximate cause which led to commission of suicide is not born out of the material on record. According to him, the statement of witnesses were recorded on 23 December 2022; the report against the applicants was lodged on 16 December 2022 whereas the offence took place on 5 November 2022. He submitted that the informant was told by the witnesses on 7 November 2022 about the alleged assault by the accused on the deceased. However, the report was lodged on 16 December 2022.

6. Per contra, learned APP objected for confirmation of ad-interim relief. He submitted that the nature and gravity of offence alleged against the applicants does not entitle them for relief under Section 438 of the Criminal Procedure Code, 1973.

7. Having considered the statement of witnesses and other material produced by the prosecution, it appears that the alleged incident took place on 5 November 2022. The first information report was lodged on 16 December 2022. The report is lodged by the brother of the deceased; however, according to him knowledge of assault by the accused was of 7 November 2022. The incident of assault, according to prosecution, took place at Solapur, however, place of suicide is in Manmad. According to prosecution, there is gap of 5 days from the date of assault. At this stage, subject to further investigation, there is no proximate cause which appears on record. The material on record do not indicate that the deceased was left with no other option but committing suicide. Therefore, the applicants are entitled to relief under Section 438 of the Criminal Procedure Code, 1973. Hence, following order:

a) In the event of arrest of the applicants in connection with C.R. No.371 of 2022 registered with Manmad Police Station for offences punishable under Section 306, 323, 504, 506 and 34 of the Indian Penal Code, the applicants shall be released on bail on furnishing P.R. Bond in the amount of Rs.50,000/- each with one or two sureties in the like amount;

b) The applicants shall make themselves available for investigation before the investigating officer on 12, 14 and 16 June

2023 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called by the concerned investigating officer;

c) The applicants shall cooperate with the investigation and make himself available for interrogation whenever required;

d) The applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

e) The applicants shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

8. The anticipatory bail application stands allowed in above terms. No costs.

(AMIT BORKAR, J.)