

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3414 OF 2022
WITH
INTERIM APPLICATION NO. 4212 OF 2022**

1. Arun Suryabhan Kandekar
2. Suhasini Satish Deshmukh ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr. Harshad Palwe a/w Mr. Abdul Shaikh a/w Ms Rukhsana Khan i/b
Mr. Sudip Mallick for the Applicant.
Ms Rutuja Ambekar, APP for the State.
Mr. Sachin Gite for the Intervener in IA 4212/22.

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CORAM : N.R. BORKAR, J.
DATED : 21 FEBRUARY 2023

P.C. :-

This is an application under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicants are apprehending their arrest in Crime No. 163 of 2022 registered at Mhasrul Police Station, Nashik for the offence punishable under Section 302 r/w 34 of the Indian Penal Code.

3. I have heard the learned counsel for the applicant, learned APP for the respondent-State and the learned counsel for the complainant /intervener.

4. The deceased was Doctor by profession. It appears that the deceased fell in love with the applicant No.2 due to which there were dispute between the deceased and his wife. His wife, thus, committed suicide in the year 2002. The crime was registered against the deceased and applicant No.2 for the offence punishable under Section 306 of the IPC. It appears that the deceased was convicted in the said case and was in jail for some time.

5. The complainant, who is the son of the deceased, has alleged that in the year 2021, the applicant No.2 had compelled the deceased to marry her. It is alleged that the applicant No.2 thereafter took overall control of the hospital run by the deceased and thus the deceased was under severe stress.

6. It is alleged that the applicant No.2 then got acquainted with applicant No.1 and developed illicit relations with him. It is alleged that the applicant Nos.1 and 2 then conspired to commit the murder of the deceased. It is alleged that pursuant to the said conspiracy, on the date of incident, which took place on 10 September 2022, the present applicants injected overdose of anesthesia to the deceased and committed his murder.

7. I have perused the statements of Pramod Gholap, who was working as a Driver with the deceased and Avinash, who was working in the hospital of the deceased.

8. Admittedly, the alleged incident took place in the hospital of the deceased. It appears from the statement of Pramod Gholap that the applicant No.1 was not present in the hospital of the deceased at the time of alleged incident. Apart from it, from the statement of Avinash, it appears that the deceased himself instructed him to insert the 'SCALP' through which overdose of anesthesia was allegedly injected by the present applicants. *Prima facie*, case appears to be of suicide and it is fortified by the fact that at the time of admitting the deceased in Sahyadri Hospital, history of suicidal attempt was given. There is a delay in lodging the FIR.

9. According to the prosecution, after the anesthesia was injected, the deceased had sent one WhatsApp message to the complainant that the present applicants had done it. However, it appears that the deceased was suspecting that applicant No.2 had illicit relations with application No.1 and therefore, possibility of false implication cannot be ruled out especially, in view of the statement of Pramod Gholap and Avinash.

10. Considering overall facts and circumstances of the case, I am inclined to release the applicants on anticipatory bail. Hence, the following order is passed:

(i) Application is allowed.

(ii) In the event of arrest of applicants in Crime No. 163 of 2022 registered at Mhasrul Police Station, Nashik for the offences punishable

under Sections 302 r/w 34 of the Indian Penal Code, they shall be released on bail on furnishing PR bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount.

(iii) The applicants shall attend the concerned police station as and when called by the Investigating Officer and shall co-operate in the investigation.

9. Interim Application does not survive and stands disposed of.

(N.R. BORKAR, J.)