

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (ABA) NO.231/2023
Dinesh Ramchandra @ Rameshchandra Heda and ors

..VS..

The State of Mah., thr.PSO PS Dharni, District Amravati

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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Shri S.V.Manohar, Senior Counsel with Shri Y.N.Sambre,
Counsel for Applicants.
Shri A.D.Raut, Counsel for the Intervenor.
Shri A.M.Kadukar, Counsel for the State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 26/06/2023

PRONOUNCED ON : 03/07/2023

1. This application under Section 438 of the Code of Criminal Procedure is filed for grant of anticipatory bail in connection with Crime No.135/2023 registered with Dharni Police Station, district Amravati for offences punishable under Sections 302, 201, and 120-B read with Section 34 of the Indian Penal Code.

2. The applicants are apprehending their arrest at the hands of the police as crime is registered against them on the basis of report lodged by Manisha Pramod Ganjre, who is the wife of deceased Pramod.

3. Applicant No.1 was serving as a teacher. In the year 2012, he obtained voluntary retirement and started

business of money lending at Paratwada. He also obtained licence for the said business. The deceased was serving with him from 2014 to 2021. On 7.7.2021, the deceased left the job. Applicant No.1 has published a notice in newspaper declaring that the deceased is not working with him. As per contentions of the applicants, the deceased failed to deposit amount of Rs.1,50,000/-, which was of applicant No.1. Applicant No.1 has communicated the said fact to the Assistant Registrar of Money Lending at Dharni on 13.1.2022. Applicant Nos.2 and 3 are also working with Applicant No.1. Prior to the incident, as the deceased has threatened applicants, they filed non-cognizable report against the deceased and one Sunil Ganjre on 21.9.2021. The wife of the deceased also filed complaint on the basis of which non-cognizable offence was registered against the applicants under Sections 504 and 506 of the Indian Penal Code.

4. On 5.1.2023, the deceased committed suicide in an agricultural field owned by Abid Shaikh. Inquest panchanama was drawn and subsequently the wife of the deceased filed complaint alleging that the applicants have caused the death of the deceased as the police have not taken cognizance of the said complaint. She filed an application under Section 156(3) of the Code of Criminal Procedure. Learned Magistrate directed the

police to register the offence on the basis of which the crime is registered.

5. As per the contentions of the applicants, merely on suspicion they are implicated in the alleged offence. In fact, the deceased has committed suicide due to some domestic reasons. At the relevant time, applicant No.1 was admitted in a hospital at Akola, which at a distance of 150 kilometers from the spot of the incident. The statements recorded during investigation show that the deceased was depressed due to the behaviour of his own daughter and, therefore, he committed suicide. There is absolutely no material against the applicants to connect them with the alleged offence and, therefore, they be protected by granting anticipatory bail.

6. The said application is strongly opposed by the State on the ground that the offence is registered under Section 120-B of the Indian Penal Code and there was previous enmity between the applicants and the deceased. Prior to the incident, the wife of the deceased lodged N.C.Report against the applicants. During the postmortem report, cause of death is ascertained as the death is due constriction of neck by means of ligature due to hanging. The investigating officer has recorded statements of the witnesses which show the strained

relationship between the applicants and the deceased. Considering the same, the application deserves to be rejected.

7. On behalf of the complainant, intervention application is filed and objected the application. As per the contention of the informant, there was a previous enmity between the applicants and the deceased. The previous reports are filed against each other. The local leader attempted to settle the dispute and the intervenor has recorded the conversation which shows that applicant No.1 threatened the deceased. Thus, there is a *prima facie* material against the applicants to connect them with the alleged offence.

8. Heard learned senior counsel Shri S.V.Manohar for the applicants. He submitted that long back in the year 2021, i.e. on 7.7.2021, the deceased had left the job. The complaint filed by applicant Nos.2 and 3 and the wife of the deceased are of the year 2021. There is no material on record to show that after the N.C.Report 1307/2021, lodged by the informant against the applicants, no subsequent complaint is filed against each other. Now, the deceased has committed suicide due to the domestic reason. The statements are recorded by the investigating officer, which also show that the deceased has committed suicide due to the reason that somebody has

obtained the obscene video of his daughter , therefore, the deceased has committed suicide. He further submitted that there is absolutely neither direct evidence nor circumstantial evidence to connect the applicants with the alleged offence. He further submitted that at the relevant time applicant No.1 was admitted in Bhagirathi Memorial Hospital. The applicants have not only filed the medical certificates showing the admission in the hospital but also submitted the photographs obtained from the CCTV footage, which show that on 5.1.2023 applicant No.1 was admitted in the hospital. Thus, the presence of applicant No.1 was not in the village where the alleged incident has taken place. He further submitted that the investigating agency has recorded relevant statements and there is no eyewitness or the witness to show that the applicants are seen by them either with the deceased or near the spot of the incident. Considering the same, no *prima facie* case is made out against the applicants and hence, they be released on anticipatory bail in the event of their arrest.

9. Learned Additional Public Prosecutor Shri A.M.Kadukar for the State and learned counsel Shri A.D.Raut for the Intervenor submitted that there was business rivalry between applicant No.1 and the deceased. Applicant No.1 has threatened the deceased. The informant has recorded the

communication between the deceased and applicant No.1 when meeting was held in presence of local leader on 25.9.2021. The transcription of the said communication is filed on record which shows that there was a previous enmity between applicant No.1 and the deceased. At this stage, *prima facie* material is there to show that applicant No.1 has threatened the deceased to commit the murder and the death of the deceased is caused. The custodial interrogation of the applicants is required and, therefore, the application deserves to be rejected.

10. Having heard both the sides and perused the record, it reveals that the deceased was working with applicant No.1 and he left the job on 7.7.2021. As per the allegations, the deceased has to pay Rs.1,50,000/- to applicant No.1. Applicant No.1 has also published a public notice declaring that the deceased is not working with him. He has also informed that Assistant Registrar of Money Lending that the deceased has not deposited amount of Rs.1,50,000/-, which he has obtained from the account. On 21.9.2021, on the basis of complaint made by applicant No.3, N.C.Report was registered against the deceased. On the next date, i.e. 22.9.2021, the N.C.Report was lodged against the applicants on the basis of complaint by the wife of the deceased. The death of the deceased is caused on 5.1.2023. As per the postmortem report, the death of the

deceased is due to the constriction of neck by means of ligature. It further reveals from the investigating papers that on 13.4.2023 statements of Yuvraj Dilip Jaiswal and Madansingh Chauhan were recorded from which it reveals that somebody has obtained objectionable video of the daughter of the deceased. The deceased came to know about the same and he committed suicide. Subsequently, the wife of the deceased raised a suspicion regarding the death of the deceased and it is alleged that the death of the deceased is caused due to the previous enmity between applicant No.1 and the deceased.

11. In support of the contentions, the intervenor has filed an affidavit and submitted that on 25.9.2021 one meeting was held to settle the dispute. In the said meeting, the deceased, the wife of the deceased, son of the deceased namely Pratik, one Nayan Meshram, Sushila Ganjre, and applicant No.1 were present. She recorded the communication which took place between them, which shows that applicant No.1 has threatened the deceased and, therefore, she raised the suspicion against applicant No.1. She has also filed on record some photographs which show that the deceased has sustained the injury on his head. It is submitted by learned Additional Public Prosecutor for the State these facts are sufficient to show that there is an ample material against the applicants to

connect them with the alleged offence.

12. Perusal of the postmortem report shows the injuries mentioned at column No.17 are on neck. No injury is observed by the medical officer on head. It is specifically mentioned that no injury is under the scalp and there is no evidence of fracture to skull or base of skull. In column No.17, no injury is shown on the head. Thus, the contention of the intervenor that the deceased has sustained the injury on head is not supported by the postmortem report. Initial statements of the relatives of the deceased show that the deceased has committed suicide. The inquest report also nowhere shows the injury on the head. As per the report, the injury is sustained by the deceased behind the right ear and, therefore, blood is oozing from the said injury.

13. Perusal of the investigation papers shows no material is collected by the investigating agency to show the involvement of the applicants with the alleged offence. The only incriminating material is the transcription of the communication dated 25.9.2021 which clearly shows that there was previous enmity between applicant No.1 and the deceased.

14. While considering the anticipatory bail applications, the considerations are, the nature of the offence which should

be looked into along with severity of the punishment and custodial interrogation etc..

15. Admittedly, there is no material against applicant Nos.2 and 3 to connect them with the alleged offence.

16. Insofar as the role of applicant No.1 is concerned, the incriminating material, i.e. the previous communication is recorded during the meeting, is to be taken into consideration, which clearly points out the nature of the enmity between applicant No.1 and the deceased. This aspect requires investigation. For investigation purpose, considering the gravity of the offence and the serious allegation levelled against applicant No.1, his prayer for grant of anticipatory bail deserves to be rejected.

17. As far as prayer of applicant No.2 and 3 is concerned, the same deserves to be allowed. Accordingly I pass following order:

ORDER

1. The criminal application is **partly allowed**.

2. The application, in respect of applicant No.1 – Dinesh Ramchandra @ Rameshchandra Heda, is **rejected**.

3. In the event of arrest of applicant No.2 – Mohan @ Pankaj Haridas Sawant and applicant No.3 – Rupesh Rameshwar Kherde, in connection with Crime No.135/2023 registered with Dharni Police Station, district Amravati for offences punishable under Sections 302, 201, and 120-B read with Section 34 of the Indian Penal Code, be released on bail on they executing a P.R.Bond in the sum of Rs.30,000/- by each of them with one solvent surety by each of them of the like amount.

4. The applicant Nos.2 and 3 shall attend the concerned police station on every Monday between 10.00 a.m. and 1.00 p.m., till filing of the chargesheet.

5. Applicant Nos.2 and 3 shall furnish their cell phone numbers and addresses with address proofs.

6. The applicants shall not induce, pressurize and promise witnesses who are connected with the alleged crime.

With this, the criminal application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

1. At this stage, learned Senior Counsel Shri S.V.Manohar for applicants submits that this Court by order dated 10.4.2023 had already protected applicant No.1 - Dinesh

Ramchandra @ Rameshchandra Heda granting him *interim* anticipatory bail. Learned Senior Counsel submits that applicant No.1 wishes to challenge the order passed today rejecting his anticipatory bail application before the Honourable Apex Court. Meanwhile, if applicant No.1 is arrested, the application renders as infructuous and, therefore, learned Senior Counsel prays that order dated 10.4.2023 granting *interim* anticipatory bail to applicant No.1 be continued in operation for a period of two weeks from today.

2. Learned Additional Public Prosecutor Shri A.M.Kadukar for the State objects the said prayer by learned Senior Counsel for applicants.

3. However, I continue, order dated 10.4.2023 granting *interim* anticipatory bail to applicant No.1 - Dinesh Ramchandra @ Rameshchandra Heda, in operation for a period of two weeks from today and the same shall cease to operate thereafter automatically.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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