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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.456 OF 2024

1. Imran Khan Lukman Khan
 2. Lukman Khan Usman Khan
- APPLICANTS

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Bhushan S. Dhawale, Advocate for the applicants
Mr. D. J. Patli, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 26th SEPTEMBER, 2024

ORDER :

1. Apprehending arrest in Crime No. 0801 of 2023, registered with CIDCO Police Station, Aurangabad for offence punishable under section 306 read with 34 of the Indian Penal Code, the applicants have preferred this application under section 438 of the Criminal Procedure Code.

2. FIR is lodged by Shaikh Shafiq Shaikh Habib, in short alleging that his brother - Mehboob Shaikh has committed suicide, which is abetted by his wife and in laws. It is alleged that deceased was not having an issue out of the marriage and he was forced to execute gift deed of his residential house and plot in favour of his wife and on these counts his wife Najrana,

brother in law – Imran, mother in law – Jamila, father in law Lukhman, maternal father in law Rafiq Khan, Husband of paternal aunt – Sartaj Khan and Paternal aunt – Shama Begum have abetted to suicide of his brother.

3. Heard learned advocate for applicants and learned APP for the State. Perused the papers of investigation.

4. Applicants are relatives of the co-accused and they claim to be innocent.

5. Mehboob Shaikh committed suicide on 29th November, 2023 and the FIR is lodged on 2nd December, 2023. Perusal of investigation papers and the suicide note *prima facie* shows that main allegations of abetment to commit suicide are against wife of the deceased. General allegation is levelled against all the in laws that they were not returning papers of the gift deed executed by the deceased in favour of his wife. Except the vague allegation against the applicants, there is no material showing abetment to commit suicide, as contemplated under section 107 of the Indian Penal Code, to the extent of the applicants.

6. Learned APP strenuously opposed the application contending that main accused is still absconding and the gift deed is required to be ceased.

7. Merely because main accused is not arrested, cannot be a ground to deny anticipatory bail to the applicants. Their pre-trial custodial detention is not necessary in the facts of the present case.

8. Applicants were granted interim protection by order dated 21st March, 2024 and since then they have attended police station and co-operated in the investigation. Nothing is to be recovered from them. One of the co-accused Jamilabai Lukman Khan is granted anticipatory bail by this Court in ABA No. 135 of 2024. On the ground of parity also, the applicants are entitled for anticipatory bail.

9. In the result, the application is allowed by confirming the interim order. Till filing of the charge sheet, the applicants shall attend the concerned police station as and when called by the Investigating Officer. Applicants shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE