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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1431 OF 2023

Meerabai Jayram Maske and Others

APPLICANTS

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. Sudarshan J. Salunke, Advocate for the applicants
Mr. S.D. Ghayal, APP for respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 31st JANUARY, 2024

ORDER :

1. Applicants apprehend arrest in Crime No.570 of 2023 registered with Shevgaon Police Station, District - Ahmednagar for offence punishable under section 306, 323, 504, 506 read with 34 of the Indian Penal Code.

2. FIR is lodged by Raghunath Subhash Garad contending that on 21st June, 2023, at about 9.00 a.m. one Abhiman Kanade was cutting trees in the land Gut No. 85/2, owned by applicants. At that time, Subhash Garad, father of informant tried to convince him not to cut trees from his land, but to cut trees from applicants' land. At that time, applicant No.3 started giving abuses to his father for making frequent complaint applications

to police against applicants. On hearing the noises of quarrel, informant went to the spot and he saw applicants coming to the spot and beating his father by fists and kick blows. They also gave threats to kill his father. Since this harassment became unbearable, his father consumed poison and committed suicide then and there. His father was then taken to Nityaseva Hospital, Shevgaon. During treatment, he expired on 25th June, 2023.

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

4. There appears civil dispute going on between applicants and deceased father of informant. Father of informant had filed RCS No. 128 of 2004 wherein applicant Shridhar Garad was defendant No.2. The suit was filed for specific performance and for declaration. The suit came to be dismissed by the Trial Court, by judgment and decree dated 19th August, 2015. Thereafter, Regular Civil Appeal is filed by the deceased, challenging the decree passed in RCS No. 128 of 2004, which is subjudice.

5. Even if allegations made in the FIR, which are supported by alleged eyewitnesses are taken into consideration, *prima facie*, they do not make out a case of instigation contemplated by section 107 of the Indian Penal Code and, therefore, this

Court is of the *prima facie* view that section 306 of the Indian Penal Code is not attracted in the present case. Offence is registered in the month of June, 2023 and the investigation appears to be almost complete and mere formality of filing chargesheet is remained.

6. Applicants were granted interim protection and they have co-operated in the investigation, therefore, their pre-trial custodial detention is not necessary. In the result, application is allowed by confirming interim protection granted to applicants vide order dated 29th August, 2023.

[NITIN B. SURYAWANSHI]
JUDGE