



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.590 OF 2024**

Atul Manohar Gambhire ... Applicant
versus
The State of Maharashtra ... Respondent
WITH
ANTICIPATORY BAIL APPLICATION NO.3209 OF 2023

Shantabai Tukaram Mohite ... Applicant
versus
The State of Maharashtra ... Respondent
WITH
ANTICIPATORY BAIL APPLICATION NO.10 OF 2024

Balabai @ Sunita Manohar Gambhire ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Anil Shitole i/by Mr. Dhananjay K. Bhosale, for Applicants.
Ms. Ranjana D. Humane, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 11 MARCH 2024

P.C.

1. ABA Nos.3209 of 2023 and 10 of 2024 are not on board. Upon mentioning, taken on board.
2. Heard the learned Counsel for the parties.
3. ABA No.590 of 2024 is preferred by the applicant seeking pre-arrest bail in connection with C.R.No.739 of 2023 registered with Mangalwedha Police Station for the offence punishable under Section 306 read with Section 34 of the Indian Penal

Code.

2. The marriage of the first informant's sister (the deceased) was solemnized prior to 20 years. She died by suicide on 19th September 2023. The first informant lodged a report with the allegations that the mother in law Shantabai and sister in law Balabai were harassing the deceased to dissuade her from having treatment for infertility and coerced her to adopt the applicant, who is the son of Nandabai. The first informant alleged, unable to bear the ill-treatment the deceased died by suicide.

3. In ABA No.3209 of 2023 by an order dated 9 November 2023, this Court had granted ad-interim relief opining, *inter alia*, that prima facie it appeared debatable whether an offence of abetment can be said to have been made out. In ABA No.10 of 2024, a co-ordinate Bench of this Court granted ad-interim relief to co-accused Balabai, mother of the applicant.

4. Learned Counsel for the Applicant submits that the applicant Atul also deserves the same dispensation.

5. I have perused the allegations in the FIR. Evidently, the marriage of the deceased was solemnized with Hanumant Mohite, son of Shantabai, prior to 20 years. They were issueless. It appears that the deceased was having treatment for infertility. The gravamen of indictment against the applicant is that they were exerting pressure on the deceased to adopt the applicant.

6. In the circumstances of the case, whether the insistence of applicant being adopted by the deceased would constitute a direct and/or proximate act for the alleged commission of suicide would be a matter for adjudication at the trial. Prima facie, it appears debatable whether the said insistence would constitute an instigation or intentional aid to commit suicide. In any event, having regard to the nature of the accusation, the custodial interrogation of none of the applicants is warranted. I am, therefore, impelled to allow all the applications.

7. Hence, the following order :

ORDER

(i) ABA Nos.3209 of 2023 and 10 of 2024 are made absolute on the terms and conditions incorporated in the orders dated 9 November 2023 and 5 January 2024 respectively.

(ii) In ABA No.590 of 2024, in the event of the arrest of the Applicant – Atul Manohar Gambhire in connection with C.R.No.739 of 2023 registered with Mangalwedha Police Station, the Applicant be released on bail on furnishing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(ii) The Applicant – Atul Manohar Gambhire shall co-operate with the investigation and report to Mangalwedha Police Station on 18th and 19 March 2024 in between 10.00 a.m. to 1.00 p.m., and, thereafter, as and when directed.

(iii) The Applicant – Atul Manohar Gambhire shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the prosecution witnesses or any of the persons acquainted with the facts of the case.

(iv) The Applicants shall regularly attend the proceedings before the jurisdictional Court.

(v) The applications stand disposed.

(N.J.JAMADAR, J.)