

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1004 OF 2024

Bharat Kantilal Galande & Anr.	 Applicants
versus	
State of Maharashtra	 Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.1005 OF 2024**

Vilas Ananta Galande & Anr.	 Applicants
versus	
State of Maharashtra	 Respondent

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- Mr. Sachin H. Deokar, Advocate for Applicants in both ABAs.
- Mr. Nitin B. Patil, APP for the State/Respondent in ABA/1004/24.
- Mr. Avinash A. Naik, APP for the State/Respondent in ABA/1005/24.

CORAM : SARANG V. KOTWAL, J.
DATE : 15th APRIL, 2024

P.C. :

1. Both these applications are decided together by this common order because they arise out of the same registered offence.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.953/2023, dated 14/12/2023,

registered with Karmala Police Station, Solapur Rural, under sections 306, 504, 506 r/w 34 of the Indian Penal Code.

3. Heard Mr. Sachin H. Deokar, learned counsel for the Applicant and Mr. Nitin B. Patil and Mr. Avinash A. Naik, learned APP for the State.

4. The FIR is lodged by one Prakash Rasal. He has stated that their family has a dispute regarding land at Kumbhargaoon, bearing Gat No.57/1, 58/2 with the Applicants Vilas, Kantilal and Laxman. According to the first informant, the cases were pending at Karmala and Barshi in respect of the dispute. It is alleged that the Applicants Kantilal and Vilas had threatened the informant's mother Parvati on 01/09/2023, for which NCR No.1837/2023 was registered at Karmala police station. All the Applicants had again threatened her on 04/09/2023 for which another NC vide NCR No.1844/23 was lodged at the same police station on 05/09/2023. On 06/09/2023 all the Applicants came to the said land. They had brought a tractor and a JCB machine. When the informant's mother questioned them, all of

them spoke arrogantly with her. The Applicant Bharat gave poison to her and told her to consume it. The informant's mother was harassed and therefore she consumed that poison. It is mentioned in the FIR that the informant came outside his house. He saw his mother lying in the agricultural land. The accused were going away with their JCB machine and the tractor. The informant went near his mother and asked her what had happened. At that time, she told him that all the Applicants were trying to enter into that land. She questioned them and then the Applicant Bharat gave her poison which she had consumed. The informant's mother was taken to Civil Hospital, but she was declared dead before treatment. It is the case of the informant that the police did not take his complaint seriously. They did not act on the NC complaints lodged earlier. Therefore, he approached the Magistrate's Court and obtained an order u/s 156(3) of Cr.P.C. pursuant to which the FIR was lodged.

5. Learned counsel for the Applicant submitted that the case in respect of the land was decided in favour of the Applicants Laxman, Kantilal and Vilas in 2016. The decree was

executed through Tahasildar. Learned counsel relied on the documents in that behalf which are annexed at Ex.'C' to this application. He submitted that the informant's family was trying to obstruct the peaceful possession of the Applicants. The informant is taking advantage of this unfortunate incident to implicate the Applicants falsely. Learned counsel submitted that in fact there was quarrel between the informant and his mother, which has resulted in the informant's mother consuming poison. The informant was in Pune on that day and therefore, the story in the FIR is not true.

6. Learned APPs appearing in this application opposed these submissions and produced the investigation papers before the Court for perusal. They submitted that the offence is serious and therefore the Applicants' custodial interrogation is necessary. At this stage, there is no reason to doubt the veracity of the statement given by the first informant. They submitted that the very fact that two NCs were registered proximate in time of the incident, shows that the step taken by the deceased was a result of the threats given by all the Applicants.

7. I have considered these submissions. At this stage, there is no dispute that the informant's mother had died because she had consumed the poison. The cause of death was mentioned as 'the death was due to poisoning'. The question is whether the Applicants can be said to have committed offence punishable u/s 306 of the IPC. The statement of the first informant was earlier recorded on 07/09/2023. In that statement, he has stated that on 06/09/2023 he was working in marketyard at Pune. At that time, his son Tushar had called him and informed him that the informant's mother had consumed poison. After that, the informant went to Kumbhargaon, Taluka Karmala at about 08.30 p.m. At that time, the informant's mother was kept in the house in serious condition. After some time an ambulance was brought and she was taken to Karmala, but she was declared dead. This story is materially different from the FIR lodged in this case. In the statement dated 07/09/2023 it was mentioned that the informant was at Pune and secondly there is no reference to any conversation between the informant and his mother.

8. The police had also recorded statement of one Sangita Rasal, who was the daughter-in-law of the deceased. She has stated that on 06/09/2023 she heard shouts of her mother-in-law i.e. the deceased. Sangita returned home. She saw that the Applicants were cultivating their land and her mother-in-law Parvati was lying in the shed in front of her house. A bottle of pesticide was lying nearby. Her mother-in-law had consumed that poison. After some time, Sangita's husband Datta came home. He in turn informed their nephew Tushar and then Tushar's father Prakash i.e. the present informant came to Kumbhargaon. After all this, the mother-in-law of this witness was taken to hospital, but she was declared dead. Again there is no reference of the informant's presence at the time of incident or his conversation with the deceased. Subsequently, after registration of the FIR the police have not recorded the statement of this particular witness Sangita. All this raises doubt about the prosecution case. There is substance in the submissions of learned counsel for the Applicant that the Applicants had already got the possession of the land through

the procedure adopted in accordance with law. Sufficient doubt is created at this stage against the prosecution story about the Applicants involvement. Therefore, they can be protected u/s 438 of Cr.P.C. It is made clear that all these observations are made only for the purpose of passing this order.

9. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.953/2023, dated 14/12/2023, registered with Karmala Police Station, Solapur Rural, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) The applications are disposed of accordingly.

(SARANG V. KOTWAL, J.)