

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

ANTICIPATORY BAIL APPLICATION NO. 1052 OF 2024

(1) Abdul Hamid Abdul Aziz Shaikh, (2) Mrs. Julekha Abdul Hamid Shaikh	..Applicants
Versus	
The State of Maharashtra	..Respondent

Mr. Moinuddin Khan for Applicants.
Mr. Avinash A. Naik, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 18 APRIL 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.850 of 2024 registered at Mumbra Police Station, District Thane, on 27.02.2024, under section 306 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Moin Khan, learned counsel for the applicants and Mr. Avinash Naik, learned APP for the State.

3. The F.I.R. is lodged by one Mohammad Malik @ Shaikh in respect of suicide committed by his brother Mohammad Saquib Shaikh. The present applicants are the parents of the wife

of the deceased. The deceased and his wife had three sons aged 11 years, 9 years and 5 years. The deceased was staying with her and their children from 2016, at Mumbra. He was having his own business of travels. On 27.02.2024, he committed suicide in his own house by hanging himself. The informant had gone there because the deceased was unreachable. There he saw that the deceased was in hanging position. He called the others and the police were informed. The deceased was declared dead in the hospital. There was a suicide note left behind by the deceased. In that suicide note, he had blamed the present applicants and his wife. It was mentioned that his wife was having an affair with a boy. The deceased could not tolerate that and, therefore, he was committing suicide as he had lost his honour. It was mentioned that, because of the act of his wife, he was in depression. On these allegations the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the allegations in the F.I.R. are not true. The circumstances under which suicide note is recovered are not clear. He submitted that, even otherwise, taking the prosecution case as it is, at the highest,

it cannot be said that the ingredients of Section 107 r/w. 306 of the I.P.C. are made out in the present case. The wife had lodged her own N.C. on 17.09.2023 at Tardeo police station mentioning that the deceased was suspecting her character and was harassing her. He submitted that the suicide note itself mentions that the deceased was in depression. The wife was not staying with the deceased. The applicants are not responsible for the act committed by the deceased.

5. Learned APP opposed these submissions. He submitted that, there is an F.I.R. pending against the wife under the Protection of Children from Sexual Offences Act, wherein, it is alleged that she had kept physical relations with a minor boy. Therefore, the allegations in the suicide note are not unsubstantiated. He submitted that the acts of all the accused together had driven the deceased to commit suicide. The offence is serious and, therefore, the applicant cannot be protected U/s.438 of the Cr.p.c.

6. I have considered these submissions and I have

perused the investigation papers. The suicide note refers to the applicants and their daughter and also refers to his belief that his wife (the applicants' daughter) was having an affair with somebody else who is named in the suicide note. I find substance in the submission of learned counsel for the applicant. The past record shows that the wife herself had lodged an N.C. at Tardeo police station because the deceased was suspecting her character and on that ground he was harassing her. There used to be frequent quarrels between them. The F.I.R. mentions that, prior to the incident the wife had left the house of the deceased and had started residing with the applicants. Thus, on the date of incident, there was no proximity of any act committed by the applicants which could have driven the deceased to commit suicide. The suicide note does mention that, the deceased was feeling depressed. In this view of the matter, the applicants' custodial interrogation is not necessary. It is sufficient if they co-operate with the investigation.

7. Hence, the following order :

ORDER

- i) In the event of their arrest in connection with C.R.No.850 of 2024 registered at Mumbra Police Station, District Thane, the applicants are directed to be released on bail on their executing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)