

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

Anticipatory Bail Application No.2061 of 2024

Anu Lalit Jain

Aged about: 33 years, Occ. Service

Address: B/403, Balaji Annex,

Ramdev Park, Mira Road (E),

Thane- 401107

... Applicant

v/s.

1. The State of Maharashtra

Through Navghar Police Station

2. Bhagwatilal Hiralal Jain

(Informant)

Address: 204, Kent Garden,

TPS 3rd Road, Boriwali (W),

Mumbai

... Respondents

With

Interim Application No.2969 of 2024

In

Anticipatory Bail Application No.2061 of 2024

Bhagwatilal Hiralal Jain

Age -63 years, Occ.: Business,

R/at.: 204, Kent Garden,

TPS 3rd Road, Boriwali (W),

Mumbai

... Applicant/
Intervenor

In the matter between

Anu Lalit Jain

Aged about: 33 years, Occ. Service

Address: B/403, Balaji Annex,

Ramdev Park, Mira Road (E),

Thane- 401107

... Applicant

v/s.

The State of Maharashtra

(Navghar Police Station

CR No.0392/24)

... Respondent

With

Anticipatory Bail Application No.2410 of 2024

Shiv Kumar Singh

Aged: 36 years, Occ: Service,

Residing at En3, B/303, Rose Building,

Evershine Nagari, Near Vithal Mandir,

Vasai Road – 401 208

... Applicant

v/s.

The State of Maharashtra

At the instance of Sr. Inspector of

Police, Navghar Police Station vide

their FIR No.392 of 2024

... Respondent

With

Interim Application No.3711 of 2024

In

Anticipatory Bail Application No.2410 of 2024

Bhagwatilal Hiralal Jain

Age- 63, Occ.: Business,
R/at.: 204, Kent Garden,
TPS 3rd Road, Borivali (West),
Mumbai

... Applicant/
Intervenor

In the matter between

Shiv Kumar Singh
Aged: 36 years, Occ: Service,
Residing at B-303, Rose Building,
Evershine Nagari, Near Vithal Mandir,
Vasai Road – 401208

... Applicant

v/s.

The State of Maharashtra
(Navghar Police Station
CR No.0392/24)

... Respondent

Mr Aayush Pasbola, along with Mr Akshay Giri and Mr Yogesh Dharra, for the applicants in both ABAs.

Mr Arfan Sait, APP, for the respondent/ State.

Ms Smita Kadu, for respondent No.2 in ABA/2061/2024 and the intervenor/ informant in ABA/2410/2024.

PSI RS Salunkhe, Mira Bhayandar Vasai Virar Navghar Police Station, is present.

Coram: R.N. Laddha, J.

Date: 17 October 2024.

P.C.:

By these applications, the applicants seek pre-arrest bail in

connection with CR No.392 of 2024, registered at Navghar Police Station, Thane, for offences punishable under Sections 306 read with 34 of the Indian Penal Code.

2. The First Information Report (FIR) in this case was lodged by the father of the deceased. According to the FIR, the applicant, Anu, was involved in an extra-marital affair with Shivkumar (the applicant in ABA/2410/2024). The informant, who is the father of the deceased, had repeatedly urged his son to divorce Anu due to her infidelity. It is alleged that Anu's actions caused the deceased severe emotional distress, leaving him disturbed and agitated. This turmoil is said to have ultimately driven him to take his own life on 25 May 2024. Before his death, the deceased left a note naming both Anu and Shivkumar as the persons responsible for his mental anguish, holding them accountable for his decision to commit suicide.

3. Mr Aayush Pasbola, the learned Counsel appearing on behalf of the applicants, asserting the applicants' innocence, submits that the applicants have been falsely implicated in the present crime. He contends that the strained relationship between Anu and the deceased led to a divorce petition by mutual consent being filed before the Family Court. However,

the deceased later withdrew his consent to the divorce. Further, on 23 May 2023, the deceased threatened Anu with suicide, prompting her to file a non-cognisable (NC) complaint against him. The learned Counsel emphasises a delay of 34 days in filing the FIR. The deceased committed suicide on 25 May 2024, but the FIR was only lodged on 29 June 2024. This delay, the learned Counsel argues, casts serious doubts on the authenticity of the allegations. Furthermore, there is no *mens rea* on the applicants' part; therefore, the essential elements of abetment as defined under Section 107 of IPC, are not present. There is no direct evidence to prove that the applicants' conduct was of such an oppressive nature that it drew the deceased to take this drastic step. Mr Pasbola further submits that the applicants have no criminal antecedents and are willing to cooperate fully with the investigation.

4. Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/ State, and Ms Smita Kadu, the learned Counsel for the first informant/ intervenor, opposing the request for bail, jointly contend that the offence is of a serious nature and the deceased explicitly named the applicants in the suicide note. According to the submissions, the applicants' affair caused the deceased significant emotional

distress, ultimately leading him to commit suicide. The learned APP submits that the investigation is in progress and raises concerns that the applicants may tamper with the evidence or influence witnesses if released on pre-arrest bail, thereby hindering the investigation.

5. Section 306 of IPC deals with the abetment of suicide and requires the accused's culpability to be more than mere speculation or conjuncture in the absence of direct inducement or incitement. The abetment to commit suicide requires not merely the presence of circumstantial pressure but a direct and purposeful act of abetment or instigation.

6. Having heard the learned Counsel for the parties and perused the material on record, it *prima facie* appears that the applicants did not take any definitive action at the time of the incident that directly led to the deceased's tragic decision to end his life. There is no material on record to indicate that the applicants indulged in the conduct of such a compelling or oppressive nature as to leave the deceased with no viable alternative but to resort to the extreme measure of suicide. The marital discord between the deceased and Anu appears to have started well-before the tragic incident, ultimately resulting in

the filing of a divorce petition by mutual consent in August 2023. However, the deceased himself withdrew his consent for divorce in the proceedings before the Family Court, which adds complexity to the situation. Furthermore, prior to the incident, Anu had lodged a NC complaint, alleging that the deceased was threatening her with suicide, suggesting that she had expressed concerns about his behaviour before the tragic incident. The investigation is almost over, and there is nothing left to be recovered from the applicants. The apprehension of the prosecution that applicants may tamper with the evidence or influence the witnesses can be addressed by imposing appropriate conditions. In these circumstances, the present applications are allowed in the following terms:

(i) In the event of arrest, the applicants shall be released on bail in CR No.392 of 2024, registered at Navghar Police Station, Thane, on executing a PR Bond of Rs.25,000/- each and furnishing one or more sureties in the like amount.

(ii) The applicants shall cooperate with the investigation and report to the

concerned Police Station, as and when directed.

(iii) The applicants, themselves or through any other person, shall not tamper with the evidence or influence witnesses.

7. The applications stand disposed of accordingly. As a sequel, the pending interim applications are also disposed of.

(R.N. Laddha, J.)