

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2703 OF 2024

Raghunath Janba PatilApplicant

VERSUS

State of Maharashtra And Ors.Respondents

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2704 OF 2024

Dnyandeo S PatilApplicant

VERSUS

The State Of MaharashtraRespondent

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2705 OF 2024

Shivraj Laxman PatilApplicant

VERSUS

State of MaharashtraRespondent

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2706 OF 2024

Sanjay Vitthal PatilApplicant

VERSUS

The State of MaharashtraRespondent

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WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2707 OF 2024

Krushna B Patil

.....Applicant

VERSUS

State of Maharashtra

.....Respondent

Mr. S.R. Borulkar a/w Mr. S.S. Borulkar i/by Mr. Manoj A. Patil for Applicants.

Mr. Parvin Naik a/w Mr. Amit Sharma and Kalyani Kabra for the Intervenor.

Mr. Sagar R. Agarkar, APP for Respondent-State in ABA/2703/2024.

Ms. Rutuja Ambekar, APP for Respondent-State in ABA/2704/2024 and ABA/2705/2024.

Mr. Bapu Holambe Patil, APP for Respondent-State in ABA/2706/2024.

Mr. Kiran C. Shinde APP for Respondent-State, in ABA/2707/2024.

CORAM : MANISH PITALE, J.

DATE : OCTOBER 07, 2024

P.C. :

1. These Applications have been filed by the five accused persons in connection with First Information Report No.0101 of 2024, dated 20th September 2024 registered with police station Nesari, District Kolhapur for offence under Section 108 read with 3(f) of the Bharatiya Nyaya Sanhita, 2023 (BNS 2023).

2. The first informant in the present case is the son of the deceased. It is alleged that on 15th September 2024 the victim that is, father of the first informant committed suicide due to harassment suffered at the hands of the Applicants. The statement leading to registration of the First Information Report quotes a Whats-App message received in a group of which the informant is also a member. In the said group the victim

posted a message that he was forced to commit suicide because he was fed up of the harassment at the hands of the Applicants and their act of taking the assistance of a woman and her son to cause harassment to him.

3. The learned Counsel for the Applicants submit that even if the contents of the statement, leading to registration of the First Information Report, are to be accepted for the sake of arguments, ingredients of the offence under Section 108 of the BNS 2023, pertaining to abetment of suicide, are not made out. It is submitted that the victim was running a fair price shop and in that connection there were allegations of misappropriation made against him. In such circumstances, it cannot be claimed that even if the allegations were made at the behest of the Applicants, it amounted to instigating the victim to take the extreme step.

4. The learned APPs, on the other hand, submit that the FIR has been registered recently and the investigation is at an initial stage. Some statements of witnesses have been recorded during the course of investigation including those of the family members of the victim. Such statements do reveal the tremendous mental stress suffered by the victim due to the activities of the Applicants, which led the victim to take the extreme step.

5. The learned Counsel having instructions to appear on behalf of Respondent No. 1 seeks time to file an Intervention Application, while the learned Counsel for the Applicants are pressing for interim relief.

6. This Court has considered the the rival submissions on the question of interim relief. Since the First Information Report has been registered recently, it would be appropriate to keep the Applications pending and to consider the question of interim relief.

7. A perusal of the statement leading to registration of First Information Report indeed shows that the message posted by the victim in the Whats-App group specifically named all the Applicants. It is alleged that they were harassing the victim, due to which he was forced to commit suicide. There is a reference made to a woman and her son being used as tools by the Applicants. He further stated that due to this he has been forced to take the extreme step.

8. The statement of the widow of the deceased recorded during the course of investigation shows that allegations of misappropriation were made against the victim in the context of the fair price shop being run by him. It is alleged that the Applicants had made such allegations and the matter is now pending before this Court. In that context, allegations of harassment are made against the Applicants. There is also an allegation that the Applicants were defaming the victim in public places due to which he was forced to commit suicide.

9. This Court is of the opinion that the ingredients of the offence under Section 108 of the BNS 2023 pertaining to abetment of suicide, necessarily require reference to Section 45 thereof, which pertains to the abetment. The said provision indicates that if a person instigates another do a particular thing, it can be stated that such a person is responsible for abetment. Prima facie this Court is of the opinion that while the allegations leveled against the Applicants in the statement leading to registration of the FIR and in some of the statements recorded during the course of the investigation may indicate that the victim was harassed by the activities of the Applicants, but at this stage it appears difficult to reach a conclusion that a strong prima facie case is made out against the Applicants for having abetted the suicide of the victim.

10. An opportunity can be granted to the Investigating Authority to place investigation papers on record and to report to this Court about

further developments during investigation, but in the meanwhile the Applicants have made out a case for granting interim relief.

11. The first informant can also file Intervention Application, if so advised.

12. Therefore there shall be interim order in the following terms:-

- A. Till the next date, in the event the Applicants, Mr Raghunath Janba Patil, Mr Dnyandeo S Patil, Mr Shivraj Laxman Patil, Mr Sanjay Vitthal Patil and Mr Krushna B Patil, are arrested in connection with First Information Report No.0101 of 2024, dated 20th September 2024 registered with police station Nesari, District Kolhapur, they shall be released on bail on furnishing PR Bond of Rs.25,000/- [Rupees Twenty Five Thousand only] each and one or two sureties in the like amount each;
- B. The Applicants shall remain present before the investigating officer on 9th October 2024 and 10th October 2024 and thereafter, as and when called by the investigating officer. They shall co-operate with the investigation;
- C. The Applicants shall cooperate with the investigation including surrendering their mobile phones.
- D. The Applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.

13. In the event the Applicants violates any of the above conditions, this interim order will be liable to be recalled.

14. List these matters on 19th November 2024, high on board.

(MANISH PITALE, J.)

Arun Sankpal