

CORAM : P.D. KODE, J.

DATE : FEBRUARY 02, 2015

P.C.

. By these applications respectively accused No. 1, 5 and 3 in charge sheet submitted by Mahim police station against them and one more accused for commission of offence punishable under Section 306 read with 34 of Indian Penal Code, has prayed for bail.

2. The said police station has accordingly charge sheeted the said accused upon the F.I.R. lodged by one Saraswati, wife of the deceased Gopal Mali on 27-07-2014 regarding her husband Gopal having committed suicide on 23-07-2013 i.e. about a year prior to lodging of F.I.R. by hanging himself in hotel Mahim Palace at Mahim.

3. In nutshell, it is her case that her husband had taken loans from all the charge sheeted accused and one more person and they were behind

him for repayment. Her husband was not able to pay back the loans due to high interest rate and ultimately he committed suicide and said act of the applicant and other co-accused threatening him for repayment of loan had abetted his commission of suicide.

4. The learned APP opposed the application on the count that the material collected during the investigation having revealed of their being a nexus in between the deceased committing suicide and demand of repayment of loan advanced by the applicants. It is submitted that prior suicide note to such effect has been collected supporting such inference. It is thus submitted that one life having been lost due to such activity on the part of the applicants, they are not entitled for bail.

5. The learned counsel for the applicants press the prayer for bail on the count that it is highly debatable that legitimate demand for return

of loan can be said to be an act amounting to an abetment of commission of such suicide. It is alternatively submitted that at any rate the offence is not exclusively punishable with imprisonment for life and the applicants are having no antecedents and the investigation in crime is complete, the prayer be leniently considered.

6. Though the perusal of the charge sheet undoubtedly reveals of the deceased having died due to commission of suicide and earlier himself having prepared suicide note about a year back implicating the applicants and others, still it appears highly debatable whether the legitimate demand for return of money can always be construed as an act of abetment for commission of suicide on such count. Having regard to it and the investigation being complete, there being no proximity of time in between earlier suicidal note and the date of commission of suicide, the offence being not exclusively punishable with imprisonment for life,

deserves discretion to be exercised in favour of grant of bail.

7. Resultantly, the application is allowed.

8. Each of the applicant is hereby directed to be released on bail upon furnishing P.R. Bond in sum of Rs. 30,000/- (Thirty Thousand) with one or more sureties to make up like amount and subject to the conditions that they shall stay at the addresses mentioned in the applications and shall attend the investigating officer as and when summoned by him and not to indulge in any activity of tampering the prosecution evidence and/or not indulging in any activity of coercing, threatening and pressuring the prosecution witnesses.

Applications stands disposed of.

(P.D. KODE, J.)