

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2976 OF 2016

1. Chandramal Pradhanmal Galani,
 2. Rajesh Chandramal Galani,
- Both R/o. Kumar Nagar, Dhule. ...Applicants

versus

The State of Maharashtra ...Respondent

WITH

**CRIMINAL APPLICATION NO.3147 OF 2016
IN
CRIMINAL APPLICATION NO. 2976 OF 2016**

Smt. Varsha Annasa Kshariya,
Age: 45 years, Occ: Household,
R/o. Plot No. 21, Anand Nagar,
Mahabal Col., Jalgaon. ...Applicant

versus

Chandramal Pradhanmal Galani & ors ...Respondents

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Mr. Gupte, Senior Counsel I/b Mr. Joydeep Chatterji, Advocate for
applicants in Criminal Application No. 2976/2016 and for respondent
Nos.1 and 2 in Criminal Application No.3147/2016
Mr. S.D. Ghayal, A.P.P. for respondent/State
Mr. V.D. Salunke, Advocate to assist A.P.P.
.....

WITH

CRIMINAL APPLICATION NO.2906 OF 2016

Govind Motumal Duseja (Batatewala)
Age: 61 years, Occ: Business,
R/o. Block No.C-6, Kumar Nagar,
Sakri road, At/Post/Tq. & Dist.Dhule. ...Applicant

versus

The State of Maharashtra
through Police Station Officer,
Dharangaon Police Station,
Tq. Dharangaon, Dist. Jalgaon.

...Respondent

WITH

**CRIMINAL APPLICATION NO.3148 OF 2016
IN
CRIMINAL APPLICATION NO. 2906 OF 2016**

Smt. Varsha Annasa Kshariya,
Age: 45 years, Occ: Household,
R/o. Plot No. 21, Anand Nagar,
Mahabal Col., Jalgaon.

...Applicant

versus

Govind Motumal Duseja
(Govind Batatewala) & anr

...Respondents

.....

Mr. Katneshwarkar, Advocate h/f Mr. Pawan Pawar, Advocate for
applicants in Criminal Application No. 2906/2016 and for respondent
No.1 in Criminal Application No.3148/2016
Mr. S.D. Ghayal, A.P.P. for respondent/State
Mr. V.D. Salunke, Advocate to assist A.P.P.

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CORAM : N.W. SAMBRE, J.

DATE : 16th JUNE, 2016

ORAL ORDER :

Criminal Application Nos. 3147 of 2016 and 3148 of
2016 moved by original complainant to assist prosecution stand
allowed for the reasons stated therein.

2. Present applicants are seeking regular bail in Crime

No.173 of 2015 registered with Dharangaon Police Station, Taluka Dharangaon, District Jalgaon for the offence punishable under Sections 306, 506 read with Section 34 of the Indian Penal Code and under Sections 39, 45 of the Bombay Money Lenders Act, 1946.

3. It is the case of prosecution that the deceased Annasa was in transaction with present applicants and has borrowed time and again certain amount for business purpose. Present applicants have harassed him time and again for outstanding payment, which are sought to be recovered at exorbitant rate. It is also reflected in the investigation papers that the property of deceased Annasa was sought to be purchased by present applicants at meager consideration or by adjusting same towards outstanding amount to be paid by deceased Annasa to the present applicants. Deceased Annasa committed suicide leaving behind suicide note naming the present applicants as responsible persons, as such, the applicants came to be arrested on 10/05/2016 in Criminal Application No. 2976 of 2016 and on 06/05/2016 in Criminal Application No. 2906 of 2016.

4. While trying to make out case for grant of regular bail, Mr. Gupte, learned Senior Counsel along with Mr. Katneshwarkar, learned Counsel for the applicants would submit that after present applicants were arrested, they were subjected to interrogation and all

the relevant material as was available with the applicants came to be seized by the investigating agency. According to them, present applicants were in magisterial custody, therefore, further detention of the applicants will be of hardly any necessity, as the applicants are holding immovable property and are very much available for investigation and process of law.

5. Mr. Gupte, learned Senior Counsel would invite my attention to the merits of the matter so as to point out that the registered sale deed was executed by complainant, wife of deceased Annasa in 2002 in favour of son of applicant Chandramal, namely Naresh. According to him, on 09/04/2002 i.e. date of sale deed, neither any civil or criminal proceedings were brought against the present applicant or his son Naresh, in whose favour, the sale deed was executed so as to come out with case that the applicants have tried to play fraud on the complainant or his family members so as to get property in question at meager rate. Mr. Gupte, learned Senior Counsel would then submit that the entire reading of the contents of first information report would depict that the transaction of deceased Annasa even if is accepted with that of the applicants, it is related to 2002 and it is too late to say that the applicants were responsible for suicide of Annasa. He would then submit that further detention of the applicants is not necessary and if released, the applicants will abide

by such conditions as shall be imposed upon them.

6. Learned A.P.P., who is assisted by Mr. V.D. Salunke, learned Counsel for the complainant, would submit that the investigation in the matter is in progress and in case, the applicants are released, there is likelihood of tampering of the evidence. He would then submit that the material including that of suicide note and statement of the complaint is available on record so as to form *prima facie* opinion that the applicants are involved in the commission of crime in question. Learned A.P.P. would then submit that the seized material depicts about commercial transaction between the present applicants and deceased and same could be considered as sufficient material to deny the bail to the applicants.

7. Mr. Salunke, learned Counsel for the complainant, while opposing the application for grant of bail, would submit that admittedly the applicants are not holding any licence for money lending. He would then submit that the alleged sale deed of 2002 in favour of son of applicant Chandramal is by way of security as possession was never parted, which still remains with the complainant. According to him, till report of hand writing expert in the matter of specimen of the applicants is received, the applicants may not be released, as there is likelihood of hampering of further

investigation. He would submit that the applications need to be rejected.

8. With the assistance of learned A.P.P., I have perused the contents of the alleged suicide note and other investigation papers. It is required to be noted that there is registered sale deed in favour of son of applicant Chandramal which was executed in 2002, which still holds the field. If submission of Mr. Salunke, learned Counsel for the complainant is to be accepted that same is only for the purpose of security, the complainant has every right and remedy available under Money Lenders Act or under Specific Relief Act for dealing with such document, however, the fact remains that there are no civil proceedings initiated qua registered sale deed by the complainant till date.

9. Apart from above, the fact remains that the applicants, who were arrested for the offence punishable under Sections 306, 506 read with Section 34 of the Indian Penal Code have already undergone the interrogation about a month back. In my opinion, their further detention will be of hardly any assistance.

10. As such, the applicants are entitled to be enlarged on bail. Hence, the following order :-

(i) The applicants be released on bail, in connection with Crime No.173 of 2015 registered with Dharangaon Police Station, Taluka Dharangaon, District Jalgaon for the offence punishable under Sections 306, 506 read with Section 34 of the Indian Penal Code and under Sections 39, 45 of the Bombay Money Lenders Act, 1946, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount, by each of them.

(ii) The applicants shall not enter the jurisdiction of concerned police station till the applicants are summoned in writing by the Investigating Officer for the purpose of investigation.

(iii) The applicants shall not tamper the prosecution evidence or issue threats to the complainant or witnesses.

11. Criminal Application Nos. 2976 of 2016 and 2906 of 2016 stand allowed in above terms.

[N.W. SAMBRE, J.]