

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

**14 CRIMINAL APPLICATION NO. 4341 OF 2016
WITH
APPLN/4342/2016**

**VICKY LAKSHIMAN GAVHANE
& ANR.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. A.S.Kale, Advocate for Applicants.

Mr. S.J.Salgare, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 27th SEPTEMBER, 2016

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PER COURT :

1. Applicant Vicky Lakshiman Gavhane in Criminal Application No. 4341 of 2016 and applicant Nandu Vitthal Sapate in Criminal Application No. 4342 of 2016 are accused in Crime No. I-179/2016 registered at Shrirampur City police station, Shrirampur, Dist. Ahmednagar for the offences punishable U/ss 306,504,506 read with 34 of the Indian Penal Code, by these applications are seeking pre-arrest bail.

2. Heard the learned counsel for the applicants as well as learned A.P.P. The learned A.P.P. opposed the

application by contending that at the time of his death, Nanasaheb @ Dnyaneshwar Gangaram Sapate had scribed a chit making specific allegations against applicant Nandu Vitthal Sapate. The learned A.P.P. submitted that F.I.R. lodged by the widow of deceased, so also statement of the brother of deceased demonstrate abetment by both applicants to the deceased to commit suicide and, therefore, the applicants are not entitled for any relief.

3. Perused papers of investigation. Nanasaheb @ Dnyaneshwar Gangaram Sapate committed suicide by hanging himself by the branch of tree on Wakadi road on 08/07/2016. His dead body was found on 09/07/2016 with a chit written by him. Apart from this, he has also written the name of the applicant Nandu on his full pant.

4. In the chit, deceased Nanasaheb @ Dnyaneshwar Gangaram Sapate had stated that applicant Nandu Vitthal Sapate had expressed his willingness to return back the agricultural land to the deceased on payment of ₹ 5 Lakh. Accordingly, ₹ 5 Lakh were paid to applicant Nandu Vitthal Sapate, but still he refused to hand over possession of agricultural land. It is also averred that applicant Nandu Vitthal Sapate had not withdrawn the court case. It is further averred in the chit that the applicant Nandu Vitthal Sapate demanded additional amount of ₹ 5 Lakh. It is also contended in the chit that Nandu called Gunda elements and gave threat of life to him.

5. As against this, in the F.I.R. lodged by the widow of the deceased, there are no averments regarding demand of money as a consideration for transfer of agricultural land by applicant Nandu Vitthal Sapate to the deceased. The F.I.R. reflects that the land G.No. 91 of Asagaon, Tq. Rahata, Dist. Ahmednagar was given on lease to the father of applicant Nandu Vitthal Sapate. There were some court cases between the parties. After the death of Vitthal Sapate, applicant Nandu Vitthal Sapate was cultivating said agricultural land. Informant Bharati averred that because of harassment by applicant Nandu Vitthal Sapate, they left the village and started residing at Gondhwani, Tq. Shrirampur, Dist. Ahmednagar. She further stated that court cases are still pending between the prosecuting party as well as applicant Nandu Vitthal Sapate. The informant further reported that applicant Nandu Vitthal Sapate and his friends were threatening to kill her husband when he used to attend the Court on the given dates. Therefore, according to the informant, her husband committed suicide.

6. Perusal of papers of investigation, including F.I.R., goes to show that there were long standing civil dispute between the prosecuting party as well as applicant Nandu Vitthal Sapate over leasing out agricultural land. The parties have also approached the civil Court for redressal of their grievances. In this back-drop, why the deceased had not taken the recourse to the law if really the applicant Nandu Vitthal Sapate was giving threat to him, is a question which is un-answered in the papers of investigation.

7. Perusal of the chit allegedly written by deceased as well as papers of investigation do not fulfill requirement of Section 107 of the Indian Penal Code. *Prima facie*, it is not apparent that applicant Nandu Vitthal Sapate had requisite intention and knowledge that the deceased may commit suicide. *Prima facie*, there is no material to conclude that Nandu was making harassment of deceased, which resulted into suicide by deceased Nanasaheb @ Dnyaneshwar Gangaram Sapate.

8. So far as applicant Vicky Lakshiman Gavhane is concerned, he appears to be nephew of co-accused Nandu Vitthal Sapate. No specific role is attributed to him in the crime in question. Therefore, there is no reason to deny bail to applicant Vicky Lakshiman Gavhane. So also, considering the nature of averments and the material against applicant Nandu Vitthal Sapate, his custodial interrogation is not warranted. Hence, the following order.

(i) The applications are allowed.

(ii) Applicant Vicky Lakshiman Gavhane in Crime No. I-179/2016 registered at Shrirampur City police station, Shrirampur, Dist. Ahmednagar for the offences punishable U/ss 306,504,506 read with 34 of the Indian Penal Code be released on bail on executing P.R. Bond of ₹ 20,000/- [Rupees Twenty Thousand] and on furnishing surety in the like amount.

(iii) In the event of his arrest in Crime No. I-179/2016 registered at Shrirampur City police station, Shrirampur, Dist. Ahmednagar for the offences punishable U/ss 306,504,506 read with 34 of the Indian Penal Code, applicant Nandu Vitthal Sapate be released on bail on executing P.R. Bond of ₹ 20,000/- [Rupees Twenty Thousand] and on furnishing surety in the like amount.

(iv) As a condition of this Order, the applicants shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.

(v) The applicants shall not tamper the evidence of the prosecution.

(vi) Applicant Nandu Vitthal Sapate shall attend the concerned police station on 08/10/2016 and 11/10/2016 between 11.00 a.m. and 1.00 p.m. and he should co-operate the Investigating Officer in the investigation of the crime in question.

(vii) Both the Criminal Applications stand disposed of.

[A.M.BADAR, J.]