

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

CRIMINAL APPLICATION NO.6385 OF 2016

1. Ram s/o Bhagwat Chaure,
Age: 27 years, Occ: Agri.,
R/o. Sonagaon, Tq. Patoda,
Dist. Beed.
2. Balu s/o Gorakh Chaure,
Age: 26 years, Occ: Agri.,
R/o. As above.
3. Umesh s/o Sadashiv Chaure,
Age: 25 years, Occ: Agri.,
R/o. As above.
4. Deepak s/o Baban Bhakare,
Age: 33 years, Occ: Agri.,
R/o. Bhakre Wasti, Patoda,
Tq. Patoda, Dist. Beed.

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Patoda, Tq. Patoda,
Dist. Beed.
 2. The Superintendent of Police,
Beed.
- ..RESPONDENTS

Mr N.L. Jadhav, Advocate for applicants;
Mr V.S. Badakh, Addl. Public Prosecutor for
respondents
Mr N.R. Thorat, Advocate to assist A.P.P.

WITH

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CRIMINAL APPLICATION NO.6341 OF 2016

Balu @ Balasaheb s/o Baban Kadam,
Age: 49 years, Occ: Agriculture,
R/o. Saundana, Tal. Patoda,
Dist. Beed.

..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station Officer,
Police Station Patoda,
Tal. Patoda, Dist. Beed.

..RESPONDENT

Mr A.R. Devakate, Advocate for applicant;
Mr V.S. Badakh, Addl. Public Prosecutor for
respondent
Mr N.R. Thorat, Advocate to assist A.P.P.

WITH**CRIMINAL APPLICATION NO.6387 OF 2016**

Dattatraya s/o Mukundrao Chaure,
Age: 74 years, Occ: Agri.,
R/o. Sonagaon, Tal. Patoda,
Dist. Beed.

..APPLICANT

VERSUS

The State of Maharashtra
Through Police Station Patoda,
Dist. Beed.

..RESPONDENT

Mr Niteen V. Gaware, Advocate h/f Mr. S.A. Ambad,
Advocate for applicant;
Mr V.S. Badakh, Addl. Public Prosecutor for
respondent
Mr N.R. Thorat, Advocate to assist A.P.P.

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CORAM : A.S. CHANDURKAR, J.**DATE : 13th DECEMBER, 2016****ORAL ORDER :**

Since the applicants in all these applications apprehend their arrest in Crime No. 203 of 2016 registered at Patoda Police Station, Taluka Patoda, District Beed, for the offences punishable under Sections 323, 341, 306, 354-D read with Section 34 of the Indian Penal Code and under Section 33 of the Bombay Money Lending Act, these applications are being decided by this common order.

2. As per the first information report dated 28th October, 2016, the father of Ganesh has reported that his son had borrowed certain amounts from six accused persons who used to demand return of the same with interest. It is stated that the informant's son was been harassed for the same and hence he had given them cheques drawn by his father. On the next day, the said son consumed poison, after which he expired. On that basis, the

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offence came to be registered.

3. It is submitted by the learned Counsel for the applicants that the first information report does not indicate any act done by the applicants which would instigate or lead the son of informant to commit suicide. It is submitted that merely because the applicants had demanded the refund of the amounts that had been given by way of loan, they had been implicated. The offence punishable under Section 354-D of the Indian Penal Code had been added subsequently on the basis of supplementary statements. It is submitted that the requirements of Section 107 of the Indian Penal Code are not met and therefore, there is no question of the offence punishable under Section 306 of the Indian Penal Code being made out.

4. The applications are opposed by the learned Additional Public Prosecutor by relying upon the police papers. It is submitted that the statements of the relatives of the deceased

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indicate demand was being made for repayment of loan amount and as the son of informant was being continuously harassed, he committed suicide.

5. The learned Counsel for the informant also opposed the aforesaid applications and submitted that on account of persistent demands being made, the informant's son was compelled to commit suicide. It is submitted that some of the applicants had threatened the informant after lodging the report. It is, therefore, submitted that considering the gravity of the offence, the applications deserve to be rejected.

6. Perused the first information report as well as police papers. As per the aforesaid report, it has been stated that the applicants used to demand the amount of loan as was advanced to the son of informant. It is also stated that the informant's son was being harassed to repay the same. Merely on the basis of these statements, it cannot be said that the applicants intended or

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abetted in the act of the son of the informant committing suicide. In fact, the informant had told his son that the entire amount would be paid and he should wait for some time, however, despite this his son committed suicide. *Prima facie* considering the statement made in the first information report and from other material collected placed on record, it cannot be said that the applicants intended that the informant's son should commit suicide. Persistent demands for repayment of loan amount by itself would not amount to an act of abetment.

7. In view of aforesaid, the applicants have made out a case for grant of pre-arrest bail. Hence, the following order is passed :-

(i) In the event of applicants' arrest in connection with Crime No. 203 of 2016 registered at Patoda Police Station, Taluka Patoda, District Beed for the offences punishable under Sections 323, 341, 306, 354-D read with Section 34 of the

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Indian Penal Code and under Section 33 of the Bombay Money Lending Act, on furnishing P.R. bond of Rs.15,000/- each, with one surety in the like amount.

(ii) The applicants shall remain out of Patoda Taluka till filing of the charge sheet except for attending the concerned police station for the purposes of co-operating with the investigation.

(iii) Initially the applicants shall attend the concerned police station on 22nd December, 2016 and thereafter as per the directions of the Investigating Officer.

(iv) The applicants shall not take any steps to influence the prosecution witnesses.

8. The observations made in this order are only for the purpose of deciding the present applications.

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9. Criminal Applications are allowed and disposed of.

(A.S. CHANDURKAR, J.)

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