

(1)

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

CRIMINAL APPLICATION NO.6398 OF 2016

1. Gorakh s/o Vithal Chaure,
Age: 51 years, Occ: Agri.,
Sonegaon, Tq. Patoda,
Dist. Beed.
2. Sadashiv s/o Hausrao Chaure,
Age: 52 dyears, Occ: Agri.,
R/o. Of Sonegaon,
Tq. Patoda, Dist. Beed. ..APPLICANTS

VERSUS

The State of Maharashtra
Through: Police Inspector,
Police Station, Patoda,
Tq. Patoda, Dist. Beed. ..RESPONDENT

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

CORAM : A.S. CHANDURKAR, J.

DATE : 13th DECEMBER, 2016

ORAL ORDER :

The applicants who have been arrested on 5th
November, 2016 in connection with Crime No. 203 of
2016 registered at Patoda Police Station, Taluka
Patoda, District Beed for the offences punishable

(2)

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, seek their release on bail.

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 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

(3)

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 application is 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 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 application and submitted that on account of persistent demands being made, the informant's son was compelled to commit

(4)

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 the statements recorded. It is to be noted that the name of present applicants are not mentioned in the first information report and on the basis of supplementary statements recorded, the offence punishable under Section 354-D of the Indian Penal Code has been added. Insofar as the offence punishable under Section 306 of the Indian Penal Code is concerned, the first information report does not directly implicate them as having abetted in commission of suicide. Considering the fact that the applicants have been behind bars for a period of more than one month and nothing has to be seized from them, I do not find any reason to further continue their detention.

(5)

7. In view of aforesaid, the following order is passed :-

(i) The applicants are directed to be released on bail 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 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.

(6)

(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 application.

9. Criminal Application is allowed and disposed of.

(A.S. CHANDURKAR, J.)

Tupe