

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.151 OF 2016

Santosh Shrirang Jagtap & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

.....

Mr. Kuldeep Patil with Mr. Hrishikesh Giri for the Applicants.
Ms Veera Shinde, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 28th JANUARY, 2016.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicants in apprehension of their arrest in Crime No.167 of 2015 registered at Jejuri Police Station, Pune (rural), for offence punishable under section 306 r/w. 34 of the Indian Penal Code.

2. The case of the prosecution in brief is that one Lavkesh Rane had committed suicided on 11.10.2015. His wife came across suicide note on 19.10.2015, which indicated that her husband had taken loan of Rs.8,00,000/- from the Applicants herein upon mortgaging his property and that even after repayment of the said amount they had refused to redeem the mortgage property. Wife of the

deceased therefore, lodged the FIR dated 20.10.2015 against these Applicants for abetting the suicide of her husband Lavkesh Rane. Pursuant to the said FIR aforesaid crime came to be registered against the Applicants herein. Apprehending their arrest in the said crime, the Applicants had filed an application for anticipatory bail before the Sessions Court, Pune. Said application has been dismissed vide order dated 20.1.2016. Hence, the present application.

3. Shri Kuldeep Patil, the learned counsel for the Applicants has submitted that there is no prima facie material to show that the deceased had mortgaged the property in favour of the Applicants. He has stated that the documents on record prima facie reveal that the deceased had sold the property in favour of the Applicants and hence, there was no question of either refunding the money or handing over the possession of the property. He has further submitted that there is no prima facie material to show the involvement of the Applicants in the said crime.

4. The learned APP has submitted that the suicide note prima facie reveals the involvement of the Applicants in the said crime. She has further submitted that the deceased had refunded Rs.6,00,000/- to the Applicants and that the Applicants had not handed over possession

of the property to the deceased. She therefore, claims that presence of the Applicants is required for custodial interrogation.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicants and the learned APP for the Respondent -State. The records prima facie indicate that said Lavkesh Rane had consumed poison on 11.10.2015 and that he had expired on 18.10.2015. The widow of the said deceased had lodged the FIR alleging that the Applicants herein had abetted the suicide of her husband. The FIR indicates that the deceased had mortgaged his property in favour of the Applicants and that despite the payment of money, the Applicants refused to redeem the mortgage property.

6. The records prima facie indicate that the deceased and the Applicants had entered into a sale deed dated 9.2.2015 whereby the deceased had sold the property in favour of the Applicants herein. Wife of the deceased was a consenting party to the said sale deed, which was duly registered before the sub-Registrar. Thus, there is no prima facie material to indicate that the deceased had mortgaged the property.

7. Be that as it may the material on record does not prima facie indicate that the Applicants herein had instigated the deceased to do any act or that they had committed any act or illegal omission as envisaged under section 107 of the IPC. Thus, there is no prima facie material to indicate that the Applicants are involved in abetting the suicide of the deceased. The Applicants are the permanent residents of Pune, hence, there are no chances of the Applicants absconding or thwarting the course of justice. There are no criminal antecedents against the Applicants.

8. Under the circumstances, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicants in Crime No.167 of 2015 registered at Jejuri Police Station, Pune (rural), the Applicants shall be released on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand only) each with one surety to the like amount to the satisfaction of the Judicial Magistrate, First Class, Saswad.
- (ii) The Applicants shall report to the Investigating Officer for four days from 10.00 a.m. to 1.00 p.m. from the

date of receipt of this order.

- (iii) The Applicants shall not leave the Pune-District, without prior permission of the Judicial Magistrate, First Class, till filing of the charge-sheet.

(ANUJA PRABHUDESSAI, J.)