

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.182 OF 2016

Pradip Dnyanoba Darawade & Anr. ... Applicants
Vs.
The State of Maharashtra ... Respondent

ALONGWITH
ANTICIPATORY BAIL APPLICATION NO.183 OF 2016

Harishchandra Dattoba Nalkande. ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Aniket Nikam, Adv. a/w. Aashish Satpute, Adv. for the applicant
in ABA No.182 of 2016.

Mr. Aniket Nikam, Adv. for the applicant in ABA No.183 of 2016.

Mr. D.P. Adsule, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 15th February, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.162 of 2015 registered with Ranjangaon Police Station for offences punishable under Sections 306 & 420 r/w. 34 of the IPC.

2. The case of the prosecution in brief is that the applicant Pappu @ Pradeep and Navnath had introduced the purchaser and had acted as middleman in the sale transaction. It is further alleged that

the applicant Harishchandra was the witness to the said sale transaction dated 21st October, 2015. The case of the prosecution is that by the said sale deed the land ad-measuring 1H from Gut No.78 was transferred in favour of the purchaser instead of land ad-measuring 4R from Gut No.60.

3. The case of the prosecution is that the deceased was mentally disturbed and therefore he committed suicide on 24th October, 2015. The applicants along with other accused is alleged to have abetted the suicide. Hence pursuant to the FIR lodged by Nanda Gaikwad, the daughter of the deceased the aforesaid crime was registered against the applicants and the other accused. Apprehending their arrest in the said crime the applicants had filed an application for bail the before the Sessions Court, Pune. Said application was dismissed by the Addl. Sessions Judge, Pune vide order dated 19th January, 2016. Hence the present application.

4. Mr. Nikam, the learned counsel for the applicants has submitted that the co-accused against whom similar allegations are made have already been granted anticipatory bail. He, therefore, claims that the applicants herein are entitled for bail on the ground of

parity. He has further submitted that even otherwise there is no prima facie material to show the involvement of the applicants in committing the said crime.

5. Mr. Adsule, the learned APP for the State has submitted that the deceased had named the applicants in the dying declaration. He has further submitted that there are specific allegations to show the involvement of the applicant in committing the said crime. He, therefore, contends that the presence of the applicants is required for custodial interrogation and that the applicants are not entitled for bail

6. I have perused the records and considered the submissions advanced by the learned counsel for the applicants and the learned APP for the State. The material on record prima facie reveals that on 24th October, 2015 said Dattatraya Darwade had set himself on fire. He was admitted in the hospital and he succumbed to the injuries on 29th October, 2015. The daughter of the deceased had lodged the FIR on 6th November, 2015 alleging that the applicant and the other co-accused had abetted suicide of her father Dattatraya. The complainant has stated that on 20th October, 2015 her father Dattatraya had told her that he had sold the land ad-measuring 4R

from Gut No.60 to some people from Pune. She has further stated that on 23rd October, 2015 her father had told her that he was in need of money to construct a house, hence with the consent of his brothers, he had agreed to sell 4R land from Gut No.60. She has further stated that her father had told her that Pradeep @ Pandurang had told him that some people from Pune were interested in purchasing the land and thereafter he and other brothers had agreed to sell the property to the said purchasers. She claims that her father had further told her that on 20th October, 2015 said Pradeep and others had got one sale deed prepared in favour of Sanjay Borkar and other co-accused. Her father had executed the sale deed but on the very next day he learnt that the said sale deed was fabricated. His signature was forged and instead of land ad-measuring 4R from Gut No.60 the land ad-measuring 1H from Gut No.78 was transferred in favour of the said Sanjay Borkar and other co-accused. The first informant has stated that the applicant and other co-accused had cheated her father and not being able to face the situation her father had committed suicide.

7. A perusal of the sale deed, which was duly registered before the Sub-Registrar, prima facie indicates that the deceased had sold to Sanjay Borkar & other co-accused, land ad-measuring 1R from

Gut No.78. The brothers of the deceased were consenting parties to the said sale deed.

8. It is pertinent to note that the statement of the deceased was recorded on 24th October, 2015. A perusal of the said statement prima facie reveals that on 16th October, 2015 there was altercation between the deceased and one Suresh Bhujbal. The deceased had further stated that at the instance of Pradeep, the applicant, who had acted as middlemen he had agreed to sale land ad-measuring 4R from Gut No.60 to the applicants herein. He had further stated that his nephew has received the consideration and had refused to pay the money to him and later on he had learnt that instead of land ad-measuring 4R from Gut No.60 the land ad-measuring 1R from Gut No.78 was transferred in favour of Sanjay and other co-accused. The deceased had also stated that on 22nd October, 2015 Suresh Bhujbal had assaulted his nephew Somanath Darwade and that he was mentally disturbed on account of the said incident and hence he had set himself on fire.

9. The dying declaration prima facie does not indicate that the applicants had committed any such acts or omissions as envisaged

under Section 107 of the IPC, and or instigated him to commit suicide. The applicants had only acted as the middlemen and had signed the sale deed as a witnesses. The nature of the allegations levelled against the applicants would therefore not justify custodial interrogation. The applicants are the permanent residents of Pune and there is no possibility of the applicants absconding and thwarting the course of justice. The applicants have no criminal antecedents. Considering all the above facts and circumstances, the applicants are entitled for bail.

10. Hence the application is allowed on the following terms and conditions.

- i. In the event of arrest of the applicants in Crime No.162 of 2015 registered with Ranjangaon Police Station, the applicants shall be released on bail bond of Rs.25,000/ (Rupees Twenty Five Thousand Only) each with one surety in the like amount to the satisfaction of the JMFC, Shirur.
- ii. The applicants shall report to the investigating officer for 4 days from 10 am to 1 pm from receipt of this order and further as and when required by the investigating officer for the purpose

of the interrogation.

- iii. The applicants shall not tamper with the evidence or influence the complainant or any other witnesses in any manner.

(ANUJA PRABHUDESSAI, J.)