

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.644 OF 2016

BHAGIRATH MADRAKHAN BAGHEL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.V.B.Tapkir a/w. Mr.J.S.Yadav, Advocate for the Applicant.

Mrs.Aruna S. Pai, APP for the Respondent – State.

P.S.I. A.F.Kamble, Mahatma Phule Police Station, Kalyan, present in court.

CORAM : P N. DESHMUKH, J.

DATE : 18th JULY 2016.

P.C. :

1 This application is filed by accused involved in Crime No.I-815 of 2015 registered with Mahatma Phule Police Station, Kalyan, for the offence punishable under Section 306 read with Section 34 of the Indian Penal code. At the outset, learned APP

states that name of applicant could not be stated in the FIR due to inadvertence and names of co-accused Nilesh and Ritesh only are mentioned therein. However, according to prosecution, on obtaining leave from the learned trial court, this mistake is rectified and name of applicant is mentioned in the FIR. Learned counsel for applicant has submitted that there is nothing to establish involvement of applicant in the present crime which led deceased Rajendra Singh to commit suicide by hanging in a room occupied by him as a tenant, and has thus contended that as investigation is in progress, applicant be released on imposing conditions.

2 Learned APP while opposing application has submitted that applicant along with his sons – co-accused Nilesh and Ritesh, were insisting deceased to vacate the premises or to pay additional rent, and as such were, harassing deceased on this count for last more than 10 years, due to which, deceased committed suicide. It is, therefore, prayed that application be rejected.

3 It is also contended that deceased prior to present incident had lodged N.C.Complaint against applicant and his sons, upon which offence was registered punishable under Section 323 of the IPC.

4 Perused the case diary made available by learned APP and documents filed along with the application. From the FIR it reveals that one premises was occupied by father of deceased on tenancy basis, owned by applicant. After the parents of deceased left permanently for their native place in Madhya Pradesh, premises was occupied by deceased, who was working as labour and in the room was staying with his maternal brother Sanjeevkumar Chouhan.

5 Further, contents of FIR reveal that before inducting father of deceased as a tenant, there is no agreement entered into between him and the applicant, and as there was no electric connection to the premises occupied by deceased, he had made some alternate arrangement by obtaining electricity connection

from the adjoining room no.2 occupied by one Munnibai on temporary basis. Father of deceased has regularly paid the rent amount, however, thereafter, as applicant stopped issuing rent receipts since last 10 years, no rent was thus paid, and therefore relations between applicant, his sons and deceased had become strained, and on this count, applicant was insisting deceased to vacate the premises and was subjected to threats.

6 Apart for involvement of applicant as aforesaid, even on considering the case of prosecution, that prior to present incident dated 9th September 2015, on 26th October 2013, applicant and his sons had lodged N.C.Complaint against the deceased. Having considering the long time gap of about 2 years between filing of N.C.Complaint and date of incident, said piece of evidence is too short to establish involvement of applicants with the present crime or even on considering the case of prosecution that applicant for last ten years was insisting deceased to vacate the room for non-payment of rent.

7 In that view of the matter, though investigation is pending, which is stated to be likely to be completed within two weeks, application is liable to be allowed, by imposing conditions as per order below :

- i) In the event of arrest of applicant in Crime No. I-815 of 2015 registered with Mahatma Phule Police Station, he shall be released on bail, on his executing P.R.Bond in the sum of Rs.20,000/- with one surety in like amount.
- ii) After release on bail, applicant shall mark attendance with Investigating Officer as and when called, till the filing of charge-sheet, and shall not tamper with the evidence.

(P. N. DESHMUKH, J.)