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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.697 OF 2016

Santosh Subhash Vadage and Anr.	..Applicants.
V/s.	
State of Maharashtra	..Respondent.
Mr.Vijay Killedar for the applicants.	
Mr.Arfa Sait, APP for respondent-State.	

CORAM : AM.BADAR, J.

DATED : 7TH JUNE, 2016

P.C. :-

1. Applicants / accused in Crime No.34/2016 for offences punishable under section 32(g) 33, 34 and 39 of the Money Lending Act, 2014 registered with Kurundwad Police Station, Kolhapur by this application are praying for pre-arrest bail.

2. Heard the learned counsel appearing for the applicants / accused. He submitted that as per the prosecution case the prime accused was Subhash Vadage and he has already been released on anticipatory bail by the

learned Additional Sessions Judge, Jaysingpur vide order below Exhibit 1 in Bail Application No.14/2016. Therefore, according to the learned counsel, the present applicants to whom very little role is attributed to the crime in question also needs to be granted anticipatory bail.

3. Learned APP has not dispute the fact that accused Subhash Vadage is released on anticipatory bail by the learned Additional Sessions Judge. However, according to the learned APP the offence alleged against the present applicants is serious and, therefore, they are not entitled for pre-arrest bail.

4. The prosecution case as reflected from the F.I.R. is to the effect that Prakash Kore (since deceased) had taken loan amounting to Rs.1.90 lacs from accused Subhash Vadage. As security for repayment of this loan, the field was mortgaged in favour of Subhash Vadage. Though the entire amount of loan was repaid with interest, it is alleged that Subhash Vadage was demanding Rs.9 lacs from Prakash Kore. Ultimately, there was obstructions at the instance of Subhash Vadage for carrying sugarcane from the field of Prakash to the

Sugar Factory. Ultimately, Prakash committed suicide by consuming insecticides on 21st February, 2016.

5. The role attributed to the present applicants in the crime in question is that of accompanying Subhash Vadage to the field of deceased Prakash. The F.I.R. does not reflect the names of the present applicants as persons obstructing the the deceased Prakash from transporting sugarcane to the Sugar Factory. It is not averred that the present applicants had indulged in illegal money lending business. It appears that during the course of investigation, statement of one Santosh Vegede is recorded which reflects that applicant No.2 had made a telephone call asking Mukadam of the Sugar Factory not to harvest the sugarcane from the field of the deceased.

6. According to the prosecution case because of constant harassment by Subhash Vadage and his associates, Prakash had committed suicide. It is needless to mention that abetment involves active complicity on the part of the abettor at the point of time or prior to at the time of commission of the offence. Perusal of the papers of investigation prima facie does not disclose any instigation, provocation, incitement or

encouragement of the present applicants to the deceased to commit suicide. The element of *mens rea* could not have been found even prima facie from the papers of investigation.

7. Considering the nature of the allegations against the applicants and the fact that the main accused is already granted anticipatory bail by the learned Sessions Judge, the application deserves to be allowed for the personal liberty of the applicants. Hence the order.

- (i) The application is allowed;
- (i) The order granting interim anticipatory bail to the applicants by this Court on 18th April, 2016 is confirmed on the same terms and conditions;
- (ii) In addition, the applicants to attend the Investigation Officer on 14th 21st and 28th of June, 2016 between 11.00 a.m. to 1.00 p.m. and they shall co-operate with the Investigating Officer in the investigation of the crime.
- (iii) Applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts either to the Court or to any police officer and that they shall not tamper with the prosecution evidence;

(iv) The application is disposed of accordingly.

(A.M.BADAR, J.)