

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

ANTICIPATORY BAIL APPLICATION NO. 1020 OF 2016

Milind Makaji Barathe

... **Applicant.**

Versus

The State of Maharashtra

... **Respondent.**

Mr. Aniket U. Nikam for the Applicant.

Mr. Deepak Thakarey for the State.

CORAM : A.M. BADAR, J.

DATED : 21ST JUNE, 2016.

P.C. :

1] Though, this application is coming up for the first time today, the learned Asst. Public Prosecutor insisted for its final hearing by stating that the Investigating Officer is present with case diary. Hence, taken up for final hearing.

2] The applicant/accused in Crime No. 86 of 2016, registered with Dighi Police Station, District Pune for the offence punishable under Sections 306 and 506 of the Indian Penal Code at the instance of complainant Smt. Kalpana Dnyaneshwar Parave is praying for pre-arrest bail.

3] Heard the learned Counsel for the applicant as well as the learned Asst. Public Prosecutor. According to the learned Asst. Public Prosecutor the applicant/accused is a Professional Moneylender carrying his business illegally. He has given loan amount to several individuals. The statements of Vimalabai, Sangita and Pushpa shows that the applicant/accused used to harass the debtors for recovery of hand loan. The learned Asst. Public Prosecutor further submitted that a suicide note was found near the person of the deceased, which is also seized.

4] Perused papers of investigation. On 24th May, 2016, Dnyaneshwar Parave committed suicide at his own house by hanging. The Certificate of Cause of death shows that he died because of asphyxia due to hanging.

5] The Seizure Memo of clothes of the deceased contains recitals of the suicidal note allegedly written by Dnyaneshwar Parave. The learned Asstt. Public Prosecutor submitted that the original note is sent to the hand writing expert for examination and report. The perusal of suicide note of the deceased reflected in the seizure panchanama shows that deceased Dnyaneshwar Parave had taken a

hand loan of Rs.20,000/- from present applicant Milind Makaji Barathe. It is alleged that present applicant was demanding Rs.2,00,000/- from said Dnyaneshwar Parave and for that purpose he was quarreling and threatening him. These are the only recitals from the so called note written by deceased Dnyaneshwar Parave.

6] As a charge punishable under Section 306 of the Indian Penal Code is levelled against the present applicant, *prima facie* it needs to be show that there was some active suggestion or stimulation by the abettor to the deceased for committing suicide. In the case in hand such elements is not reflected in the suicide note allegedly written by the deceased. The act alleged against him is insistence for recovery of hand loan and threatening to the deceased to pay back an amount of Rs.2,00,000/- as against the amount of Rs.20,000/-. *Prima facie* intention or knowledge cannot be attributed to the applicant herein. Considering the nature of allegations and the material collected by the Investigating Officer, custodial interrogation of the applicant is not necessary and therefore the order.

- i) The application is allowed.
- ii) In the event of his arrest in Crime No.86 of 2016 for the offences punishable under Section 306 and

506 of the Indian Penal code registered with Dighi Police Station, District Pune, the applicant/accused be released on bail on executing P.R. Bond of Rs.10,000/- and on furnishing surety in the like amount.

- iii) The 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 evidence.
- iv) Applicant shall not commit an offence similar to the offence of which he is accused.
- v) The applicant to attend Dighi Police Station on 26th June, 2016 and 3rd July, 2016 in between 11.00 am to 1.00 pm and he should cooperate with the Investigating Officer in investigating the crime.

(A.M. BADAR, J.)