

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

ANTICIPATORY BAIL APPLICATION NO. 1189 OF 2016

Dilip Masu Kuchivale

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Umesh R. Mankapure, Advocate for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent-State.

CORAM : A. M. BADAR, J.

DATE : 08th AUGUST, 2016

P.C. :

1 Applicant/accused in Crime No. 135 of 2016 registered with Islampur Police Station, Dist. Sangli for the offence punishable under section 306 of the Indian Penal Code and under sections 39 and 45 of Money Lenders Act, 1946, by this application under section 438 of the Cr.P.C., is praying for pre-arrest bail.

2 Heard learned counsel appearing for the applicant/accused as well as learned APP for the State.

3 It is argued by the learned APP that a suicide note was found and statements of Rajendra Mali, Sangeeta Kadam and Aniket Kadam go to show that the present applicant was harassing the deceased for recovery of interest on the loan

advanced to one Sunil Khairmode and fade up with the harassment of the applicant/accused the deceased committed suicide.

4 Perused the papers of investigation. On 21.06.2016 deceased - Nivas Kadam consumed poison and committed suicide in hut in field of Ravindra Khot. He left behind a suicide note. Perusal of the suicide note shows that the deceased had not mentioned the fact that the present applicant had advanced hand loan to one Sunil Khairmode and that the deceased was the guarantor to that loan. On the contrary, in the suicide note the deceased is alleged to have said that one Khairmode is liable to pay Rs.1.50 lakhs to him and that amount to be recovered. Statement of Rajendra, Aniket and Sangeeta goes to show that the applicant had advanced some hand loan to Sunil Khairmode and the deceased stood as a guarantor for refund of that loan. These statements further reflect that the deceased had paid some amount towards interest payable by Khairmode but the present applicant was insisting for payment of the principal amount as well as interest and for that purpose he was harassing the deceased.

5 In the dying declaration, the deceased has not mentioned any harassment at the instance of the present applicant for recovery of the hand loan allegedly given to one Khairmode. Even otherwise, statements of witnesses are

accepted as it is then also it cannot be said that the present applicant was having any knowledge or *mensrea* for abetting the commission of the suicide by the deceased. In this view of the matter, custodial interrogation of the present applicant is not warranted. Therefore, the order.

ORDER

- i. Application is allowed.
- ii. The order granting ad-interim anticipatory bail dated 19th July, 2016 is confirmed on the same terms and conditions.
- iii. In addition, the Applicant/accused to visit the concerned police station on 21st August, 2016 in between 11 a.m. to 1 p.m. and he should co-operate the Investigating Officer in investigation of the crime in question.
- iv. The application is disposed of accordingly.

(A. M. BADAR, J.)

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