

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.702 OF 2016

(Deorao Bhaurao Hiwrale ..vs.. State of Maharashtra, through PSO, City Police Station, Khamgaon,
District Buldhana)

WITH

CRIMINAL APPLICATION (ABA) NO.714 OF 2016

(Himmat Kashirao Rokade ..vs.. State of Maharashtra, through PSO, City Police Station, Khamgaon,
District Buldhana)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V. Sirpurkar, Advocate for applicant in ABA No.702/2016,
Shri S.D. Chande, Advocate for applicant in ABA No.714/2016,
Shri A.M. Deshpande, Addl.P.P. for the non-applicant.

CORAM : P.N. DESHMUKH, J.

DATED : 05-12-2016

Heard both the sides.

By these applications, applicants involved in Crime No.255/2016 registered by Khamgaon Police Station, District Buldhana for offence punishable under Section 306 read with 34 of the Indian Penal Code has sought anticipatory bail.

Learned Counsel for applicants has contended that deceased in the suicide note has involved applicants as persons who have collected substantial amount from deceased saying that they would double the amount, however, as they did not doubted the same nor returned back the principal amount, deceased committed suicide on 02-06-2016 by consuming poison. It is submitted that

there is nothing on record to establish that immediately prior to deceased committing suicide, either of the applicants had abetted commission of same in any manner. It is also contended that apart from present applicants, there are four other co-accused out of whom one is released on bail while three are released on anticipatory bail by learned Sessions Judge. It is, therefore, prayed that applications be allowed.

Learned Additional Public Prosecutor opposed application, contending that investigation is in progress and on the ground that the applicants are involved by deceased as the persons who have obtained substantive amount to the extent of Rs.80,00,000/- from deceased saying to double the amount, however, did not even returned back the principal amount, due to which deceased committed suicide. Prosecution also has relied upon statement of one of the witness to establish that such amount was paid to applicants by deceased.

On going through the case diary, it is noted that on the strength of report lodged by wife of deceased Sunil Tale initially A.D. was registered on 02-06-2016 in the course of which complainant has produced one suicide note wherein name of both the applicants alongwith co-accused are stated, to have accepted Rs.80,00,000/- from deceased to double said amount, however, did not act upon what is promised nor

refunded back principal amount. According to the suicide note, due to such mental torture, he committed suicide on 02-06-2016.

Considering the facts as aforesaid though names of applicants are found stated in the suicide note alongwith other co-accused who admittedly are on bail and they are granted anticipatory bail as aforesaid, from the documents in the case diary there is nothing to establish as to either of the applicants on the day of incident or immediate before abetted deceased to commit suicide.

One of the statement relied by prosecution though established involvement of applicants to have received Rs.40,00,000/- from deceased, said statement also involves co-accused Dilip Wankhade to have also received such amount, promising to double the same, who is admittedly granted bail by the Sessions Court. Moreover statement of said witness relied by prosecution refers to an incident which has taken place six months prior to recording statement.

Having considered facts as aforesaid, and as applicants by interim orders on being protected earlier, by this Court were directed to attend Investigation Officer for a period of one week, which directions are duly complied with, applications are liable to be allowed

by confirming earlier orders.

Interim orders of this Court passed in Criminal Application (ABA) No.702/2016 on 25-10-2016 and Criminal Application (ABA) No.714/2016 on 26-10-2016 stand confirmed with further direction to applicants to attend Investigation Officer as and when called till filing of charge-sheet.

Applications are accordingly allowed.

JUDGE

adgokar