

Anand

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

ANTICIPATORY BAIL APPLICATION NO.442 OF 2017

Munna alias Prashant Sudhakar .Applicant
Pardeshi

Vs.

The State of Maharashtra .Respondent

Mr.V.V.Purwant, Advocate, for the Applicant
Mr.Prashant Jadhav, APP, for the Respondent –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 07.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C.R.No.108 of 2017 registered with the Pandharpur Taluka Police Station, for the alleged offence punishable under Section 306 r/w 34 of the Indian Penal Code.

3. According to the Complainant – Smt.

Swati Nitin Aanerao, her husband-Nitin committed suicide as he was cheated by the Applicant - Munna alias Prashant Pardeshi. She has stated that although Munna alias Prashant Pardeshi had promised a sum of Rs.2,50,000/- towards purchase of her husband's land, only a sum of Rs.50,000/- was paid. She has alleged that the Applicant - Munna alias Prashant Pardeshi had told her husband - Nitin to disclose before the Registrar, that he had received the entire amount despite the fact, that he had not been paid the said amount. Pursuant thereto, a Sale Deed was entered into between the deceased - Nitin and Sadik Pathan on one hand and Aniket Shete on the other. She has stated that as the Applicant - Munna alias Prashant Pardeshi had not given the entire amount, the money lenders from whom the deceased - Nitin had taken money were harassing him. As far as co-accused - Prafulkumar Patil is concerned, she has alleged that her husband - Nitin had helped Prafulkumar

Patil to take a loan from co-accused – Vikas Bhuite. However, as Prafulkar Patil failed to return the said amount to Vikas Bhuite, Vikas Bhuite was harassing her husband-Nitin. She has stated that on account of the harassment by the said persons, her husband-Nitin committed suicide on 17.02.2017.

4. Learned counsel for the Applicant states that taking the prosecution case as it stands, no offence punishable under Section 306 of the Indian Penal Code is disclosed qua the Applicant. He submits that the Applicant has filed an Affidavit dated 19.06.2017. In the said Affidavit, the Applicant has stated that the widow of the deceased who has lodged the FIR, has instituted R.C.S.No.355 of 2017, in the Court of the learned C.J.J.D., Pandharpur, as against co-accused – Aniket Shete and has sought a declaration, that the Sale Deed dated 22.12.2016 executed by Nitin Aanerao (deceased)

in favour of Aniket Shete be declared as null and void. The Complainant has also sought an injunction, for restraining Aniket Shete from creating any third party interest, in the said property. He states that the Applicant has filed an Affidavit of examination-in-chief supporting the claim of the Complainant. The Complainant – Smt. Swati Aanerao has also filed her Affidavit in this Court, stating therein, that the Applicant has filed an Affidavit supporting her Affidavit of examination-in-chief, in R.C.S.No.355 of 2017.

5. Learned APP opposes the Application. It appears that the deceased had taken several loans from several persons and that one of them was the Applicant. It also appears that the Applicant had promised a sum of Rs.2,50,000/- towards purchase of her husband's land, however, only a sum of Rs.50,000/- was paid to the deceased. According to the Complainant – Smt.

Swati Aanerao, the Applicant had told her husband – Nitin to disclose before the Registrar, that he had received the entire amount despite the fact, that the said amount was not paid to him. It appears that pursuant thereto, a Sale Deed was entered into between the deceased – Nitin and Sadik Pathan on one hand and Aniket Shete on the other. It appears that there is a suicide note of the deceased, wherein he has named the present Applicant alongwith other co-accused. Whether or not an offence punishable under Section 306 of the IPC is disclosed in the facts of the present case, is a matter which will be decided by the trial Court.

6. In the peculiar facts of this case, custodial interrogation of the Applicant is not required. Accordingly, the Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions:-

O R D E R

(i) In the event of arrest, the Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station **as & when called for** by the investigating officer till the filing of the charge-sheet or for a period of three months whichever is earlier;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The Applicant to cooperate with the conduct of the trial.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)