

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

ANTICIPATORY BAIL APPLICATION NO.501 OF 2017

Manohar Gopal Joshi Applicant

versus

State of Maharashtra ... Respondent

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- Mr.A.P. Mundargi, Senior Advocate i/b. Umesh R. Mankapure, Advocate for the Applicant.
- Mr.Deepak Thakre, APP for the State/Respondent.

**CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 22nd MARCH, 2017.**

P.C. :

1. This application is moved for pre-arrest bail by the applicant/accused u/s 438 of Cr.P.C. The applicant/accused apprehends arrest in C.R.No.19/17 (F.I.R.No.34/17) of Sangli City Police Station, Sangli, for the offences punishable under sections 306, 403, 406 r/w 34 of the Indian Penal Code.

2. Anil Vishnu Gujar, Police Inspector of Sangli Police Station, is the complainant. His statement is recorded on

Nesarikar

25/01/2017. It is the case of prosecution that one Sunil Gajanan Pujari committed suicide by consuming poison during the night and day of 13/01/2017 and 14/01/2017 at one Trupti Lodge, at Sangli. The deceased Sunil Gajanan Pujari was working as a Project Manager in Shriram Jawahar Farmers Cooperative Sugar Company.

3. At the time of committing suicide, he wrote three pages suicide note. In the suicide note he has mentioned that the applicant/accused Manohar Gopal Joshi and one other person Hanmant Gangaram Mulik are responsible for his suicide. It was mentioned that on 08/11/2016 the Government of India issued a decision of demonetization and on 09/11/2016, the applicant/accused who was working as a Managing Director of Jawahar Cooperative Sugar Factory called him and directed him to deposit Rs.1,25,00,000/- consisting of old currency notes of denomination of Rs.1,000/- and Rs.500/-. The deceased did not want to carry such amount and deposit the said amount because it was illegal. However, the applicant/accused used his authority

and pressurized the deceased to carry the said amount and made him to deposit in the different various accounts of the sugar factory on 11/11/2016 and 12/11/2016.

4. In the suicide note the deceased has mentioned that he lost his mental balance as he committed economic offence. He became guilty and under that pressure he lost desire to live and thereafter he committed suicide. He has also mentioned in detail the names of the persons who carried amount alongwith him and also the make and number of the vehicle, which was used for transportation of old currency notes. He mentioned that one Hanmant Gangaram Mulik who has lodged two false cases against him and brought him to disrepute is also responsible for his suicide.

5. The learned senior counsel for the applicant/accused has submitted that there is no offence u/s 403 or 406 of the Indian Penal Code, as admittedly the amount which was asked to be deposited in the various accounts of the sugar factory was a society money and it was deposited in society's accounts. Thus,

there is no criminal breach of trust by the applicant/accused. The learned counsel further submitted that the applicant/accused has not committed any offence of abetment of suicide. He further submitted that the cashier of Jawahar Cooperative Sugar Factory has accompanied the deceased and has deposited the said amount in the various accounts of the sugar factory. The learned counsel further submitted that the applicant/accused is a permanent resident of Sangli and he will cooperate police if granted pre-arrest bail.

6. The learned prosecutor while opposing bail relied on suicide note of the deceased and also statement u/s 164 of Cr.P.C of other two persons i.e. employees of the Sugar Factory, who have confirmed that the said amount of Rs.1,25,00,000/- was deposited in the various accounts of the sugar factory.

7. Perused the FIR. Perused documents which are produced before the Court and the suicide note. The fact of depositing amount of Rs.1,25,00,000/- on those dates, is not

disputed by the applicant/accused. It appears that the amount belongs to the sugar factory. The applicant/accused was working as a Managing Director and deceased was working as a Project Manager in the said factory. The record shows that the deceased was asked to carry the old G.C.notes along with cashier and money was actually deposited into the bank by the cashier. After considering submissions of counsel of both side and after going through the facts of the case, I am of the view that application of section 306 of the Indian Penal Code is doubtful in view of the section 107 of the Indian Penal Code. Hence pre-arrest bail is granted to the applicant/accused on following terms and conditions :

ORDER

- (i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) The applicant/accused shall cooperate with the Investigating Officer and attend the concerned police station as and when called.

- (iii) The applicant/accused shall not tamper with the evidence or pressurize the complainant.
- (iv) The applicant/accused shall not indulge into any criminal activity.

8. The application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)