

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1196 OF 2019

Hanumant Devidas Tarange & Anr

...Applicants

Vs.

State of Maharashtra

...Respondent

Mr. Ranjeet M. Pawar, for the applicants.

Mr. S. H. Yadav, for the State.

CORAM : SARANG V. KOTWAL, J.

DATE : JUNE 04, 2019

P.C.:

1. The applicants are seeking anticipatory bail in connection with C.R. No.160/19 registered with Indapur Police Station under Section 306 r/w. 34 of IPC. The FIR is lodged on 2/3/2019.

2. The first informant was the wife of deceased Dadaram. In her FIR she has mentioned that the deceased had given around Rs.2,69,000/- to both the applicants from time to time. The applicants were refusing to repay that amount. On 20/2/2019, in the morning, at about 10.00 a.m., the deceased went to the applicants to ask for his money. The applicants refused. It is mentioned in the FIR that in the evening at around 6.00 p.m. the deceased committed suicide by setting

himself ablaze in the field of Jaywant Tarange. He was taken to Indapur Government Dispensary and thereafter to Sassoon Hospital. Thereafter, on 24/2/2019 he succumbed to his injuries. After that the first informant lodged her FIR on 2/3/2019.

3. The applicant's anticipatory bail application was rejected by Additional Sessions Judge, Baramati vide his order dated 1/4/2019.

4. Heard Mr. Pawar, Ld. Counsel for the applicants and Shri. Yadav, Ld. APP for the State.

5. Ld. Counsel for the applicants submitted that there is no evidence to show that applicants have taken that amount from the deceased. In any case not repaying the amount will not amount to instigation as contemplated under Section 107 of IPC.

6. Ld. APP produced papers of investigation report. The investigation shows that dying declaration on two occasions were recorded. The first dying declaration was recorded on 21/2/2019 by police constable attached to Sassoon Chowki. In that dying declaration, the deceased had stated that he has committed suicide because he was

unable to repay the amount which he had taken from his friends and others to the tune of Rs.1,000/- & 2,000/-. He has clearly mentioned that he had tried to commit suicide on that ground.

7. The second dying declaration was recorded on 23/2/2019. His statement was recorded before police constable attached to Loni-Kalbhori Police Station. In this statement he has given details regarding the payment made to the applicants by him. Such payments were made from 22/4/2018 to 11/10/2018. In the said dying declaration he has further stated that since the applicants were not repaying his amount, he got angry and in that state of mind he poured kerosene on himself and set himself on fire.

8. Perusal of these two dying declarations show that in the first dying declaration the deceased has given the complete different reason for commission of suicide. That dying declaration was first in point of time. It was stated in the dying declaration that he himself was unable to repay the amount which he has taken from his friends. Even in the second dying declaration he has stated that on non repayment of the amount by the applicant he got angry and in that state of mind he tried to commit suicide.

9. Thus, there are conflicting versions in two dying declarations. First dying declaration in fact shows the reason in committing suicide was totally different. Even in the second dying declaration it is mentioned that the deceased tried to commit suicide in a fit of anger. Considering these aspects, it is doubtful as to whether the ingredients of Section 107 as well as of Section 306 of IPC are made out against the present applicants.

10. In any case, considering the nature of circumstances and possible evidence, the custodial interrogation of the applicants is not necessary. Hence, the application deserves to be allowed. The applicants deserve the relief of anticipatory bail. Hence, the following order.

ORDER

1. In the event of their arrest in connection with C.R. No.160/19 registered with Indapur Police Station, the applicants are directed to be released on bail on their executing P.R. Bonds in the sum of Rs.25,000/- (Rs. Twenty Five Thousand Only) each with one or two sureties each in the like amount.

2. The applicants shall attend Indapur Police Station

on every Saturday between 3.00 p.m. to 5.00 p.m. till filing of chargesheet and shall co-operate with the investigation.

The application is disposed of accordingly.

(SARANG V. KOTWAL, J.)