

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 2256 OF 2018

Kunal Shashikant Naik .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Hrishikesh Mundargi, Advocate, for the Applicant
Mr. A. R. Kapadnis, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 24.06.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C. R. No. 168 of 2017 registered with the Trombay Police Station, Mumbai, for the alleged offence punishable under Section 306 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that identically placed co-accused – Sachin Shahaji Phadatare has been granted pre-arrest bail by this

Court (Coram : Prakash D. Naik, J.) vide order dated 21.01.2019 passed in ABA No. 171 of 2019.

4. Learned APP relies on the suicide note and the statements of some of the witnesses to show that the deceased – Pandurang Phadatare had taken money from various relatives and friends and handed over the same to the Applicant and co-accused Sachin Phadatare.

5. Perused the papers. According to the Complainant – wife of the deceased – Pandurang Phadatare, the deceased had collected money from the villagers and relatives, for getting them employed in the Navy. According to the Complainant, the amount was paid to Pandurang Phadatare who in turn had handed over the same to the Applicant and co-accused – Sachin Phadatare. The deceased – Pandurang Phadatare in his suicide note has alleged that although he had taken money from his relatives, friends and villagers, he had handed over the same to the Applicant and co-accused – Sachin Phadatare and that despite demanding the amount from them, the Applicant and co-accused – Sachin

Phadatare failed to return the said amount. The deceased – Pandurang Phadatare committed suicide on 17.03.2017. Learned counsel for the Applicant submitted that no offence as alleged under Section 306 of the Indian Penal Code is made out qua the Applicant. Learned counsel for the Applicant submitted that there is also a delay of three months in lodging the FIR. It appears that huge amounts were collected by the deceased from various persons assuring to give them employment in the Navy. According to the prosecution, as the Applicant and the co-accused – Sachin Phadatare failed to return the amount to the deceased, the deceased was unable to return the amounts to the relatives and friends, which led to him committing suicide. Whether or not the offence could be one punishable under Section 306 of the IPC is a matter which will be decided by the trial Court. It appears that huge amounts were taken by the deceased from his friends and relatives promising to give them jobs in the Navy. It also appears that some of the amounts were paid to the Applicant and the co-accused – Sachin Phadatare, however, the same were not returned by them to the deceased. In the facts, custodial interrogation of the Applicant is not warranted. Even otherwise, similarly placed

co-accused – Sachin Phadatare has been granted pre-arrest Bail by this Court (Coram : Prakash D. Naik, J.) vide order dated 21.01.2019.

6. Considering the aforesaid, the Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions :-

ORDER

(i) In the event of arrest, the Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 50,000/-** 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 filing of charge-sheet;

(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 to cooperate with the investigation and submit all bank details / property details of the Applicant and the family members.

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.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)