

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.355 OF 2020

1. Prakash Bandu Kumavat,
Age : 57 years, Occu. Railway Service,
R/o Gurudatta Nagar, Pimprala Shiwar,
Jalgaon, Tq. & District Jalgaon

2. Vijay Bandu Kumavat,
Age : 61 years, Occu. Business,
R/o Kanchan Nagar,
Jalgaon, Tq. & District Jalgaon

APPLICANTS

VERSUS

1. The State of Maharashtra

2. Police Inspector,
Police Station, Jamner,
District Jalgaon

RESPONDENTS

Mr. S.D. Hiwrekar, Advocate for the applicants
Mr. P.G. Borade, A.P.P. for the respondents/State

CORAM : MANGESH S. PATIL, J.

DATE : 27.11.2020

PER COURT :

Heard both the sides.

2. The applicants are claiming bail in the event of their arrest in connection with Crime No.70 of 2020, registered with Jamner Police Station, District Jalgaon for the offences punishable under Sections 306,

506 read with Section 34 of the Indian Penal Code and Section 39 of the Maharashtra Money Lending (Regulation) Act, 2014.

3. Briefly stated, the allegations are to the effect that the deceased had borrowed money from the applicants. By way of security, he had executed a nominal sale-deed of his land in their favour. He continued to remain in possession of the land. After repayment of the principal and interest, he reminded them to reconvey the land but they claimed some more money. They also threatened him of transferring the land to a third person unless they were paid the money. Fed-up with such persistent harassment, he committed suicide leaving behind couple of chits wherein he disclosed the cause of his suicide. The offence was registered accordingly.

4. The learned Advocate for the applicants submits that no fault can be found with the applicants if they were demanding their legitimate dues to the deceased. If he is unable to repay the dues and experiences psychological disturbance, the applicants cannot be blamed for his suicide. Accepting the allegations, the necessary ingredient for constituting the abetment under Section 107 of the IPC cannot be made out. Custodial interrogation of the applicants is not necessary. They have been granted ad-interim anticipatory bail in the month of March, 2020. They were called by the Investigating Officer and had obliged him by attending the Police Station. They are ready to abide by the same terms and conditions and the ad-interim relief may be confirmed.

5. The learned A.P.P. opposes the application. He submits that there is a suicide note wherein the deceased has specifically narrated as to how he was being pressurized by the applicants to pay more money and had threatened to dispose of the land to a third person instead of reconveying it to him. All these circumstances cumulatively would constitute instigation as defined under Section 107 of the IPC. Therefore, the Investigating Officer may be allowed to complete the investigation by resorting to custodial interrogation of the applicants.

6. The learned A.P.P. would further point out as to how there are statements of the immediate relations of the deceased and some third persons to the effect that the sale of the land was not in fact an out and out sale but was by way of a security for repayment of the loan obtained by the deceased from the applicants.

7. I have carefully gone through the papers of investigation. It is a matter of record that the deceased seems to have left behind suicide notes attributing the applicants with harassment, demand of money as a condition for executing a reconveyance. Without intending to indulge into threadbare scanning of the contents of the chits, it is suffice to observe that the deceased was also having some other reasons spelt out in these chits which were also a matter of concern for him.

8. Be that as it may, prima facie, the applicants had lend money to the deceased and were demanding it to be repaid as a condition for executing reconveyance. Whether and in what form they were otherwise harassing the deceased is a matter which will have to be gone into and revealed during the course of the trial.

9. The fact remains that the applicants have been enjoying ad-interim anticipatory bail since March, 2020. We are at the fag end of the month of November, 2020. The Investigating Officer has not specifically stated as to why and how he requires custodial interrogation of the applicants.

10. Considering the fact that there are not allegations about the applicants having committed any breach of the terms and conditions, subject to which they were granted ad-interim relief, I find no sufficient and cogent reason to refuse to confirm the same arrangement.

11. The application is allowed. The ad-interim anticipatory bail granted by the order dated 26.03.2020 is confirmed with the same terms and conditions.

[MANGESH S. PATIL]
JUDGE

