

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1074 OF 2020

**SANTOSH S/O UDHAVRAO PINGLE
VERSUS
THE STATE OF MAHARASHTRA**

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**Advocate for Applicant : Mr. Abhaysinh K. Bhosle
APP for Respondents/State : Mrs. R.P. Gour**

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**CORAM : M.G. SEWLIKAR, J.
DATE : 18.11.2020
(Vacation Court)**

ORDER:-

This is an application under Section 438 of the Cr.P.C.

2. Facts giving rise to this application are that the informant is the wife of the deceased Ashok Badade. Deceased Ashok committed suicide on 13.10.2020 by hanging in his house at Beed. It is alleged that the applicant had paid loan to one person from Chausala and the deceased was the mediator for advancement of the loan. The said person died and the applicant started harassing the deceased saying that the deceased was the mediator and since the borrower is no more, it was the responsibility of the deceased to pay the amount of loan. It is further alleged that the applicant used to visit the house of the deceased since last two months and had abused the deceased. The deceased had also told the informant about the beating and harassment

of the applicant. It is further alleged that the deceased had prepared a video clip before ending his life in which he has stated that he is committing suicide because of the mental harassment of the applicant. On the basis of the FIR offences came to be registered under Section 306, 323, 504 of the I.P.C. against the applicant.

3. Heard Shri Bhosle learned counsel for the applicant and Smt. Gour learned APP for the State. Shri Bhosle submitted that the applicant had allegedly advanced loan to a person whose name the deceased himself did not know and the deceased acted as a mediator for the same. He argued that it is incomprehensible that the person to whom loan is advanced because of the mediation of the deceased is not known to the deceased. Therefore, it cannot be said that the applicant had advanced loan to some unknown person and because of death of that unknown person the deceased was being harassed by the applicant. He further argued that custodial interrogation of the applicant is not necessary.

4. Smt. Gour submitted that the custodial interrogation of the applicant is necessary to find out the person to whom he had advanced loan for whom the deceased had acted as a mediator. She further submitted that video clip is prepared by the deceased in which he has specifically stated that the applicant had advanced money to one person and for the said transaction

the deceased was the mediator. Since that person has died, the applicant was harassing the deceased for recovery of that amount. She submitted that the offence is serious in nature. If the applicant is not interrogated, the name of that person will not be revealed. She further submitted that in the investigation it is revealed that one Ravi More a Teacher is also involved in this offence. She submitted that the FIR shows that the applicant is a money lender and unless he is interrogated it will not be clear as to whom he had advanced money. She therefore prayed for rejection of the application.

5. Perused the investigation papers. The FIR states that the applicant had advanced money to an unknown person and for the said transaction the deceased was the mediator. The deceased has uploaded a video clip on the Facebook which was prepared by him in which he has stated that the applicant had advanced money to an unknown person and the deceased was the mediator for the said transaction. It is pertinent to note that the deceased has not mentioned the name of the person to whom the applicant had advanced money and for which transaction the deceased was the mediator. The FIR also does not mention the name of the person to whom money was advanced at the instance of the deceased. Smt. Gour submitted that the custodial interrogation of the applicant is necessary as it will reveal to whom the applicant had made calls and how many times he had made the

calls. Just for calling information as regards the calls made by the applicant custodial interrogation is not necessary as the investigating agency can certainly collect this information in the form of CDR (Call Details Record) from the cellular company. The service provider can furnish this information. It is not the case of the prosecution that the money was advanced to the deceased and for the recovery of the same he was being harassed. Neither the FIR nor the video clip clarifies as to how much amount was paid by the applicant to the said unknown person at the instance of the applicant. In this view of the matter custodial interrogation of the applicant does not seem to be necessary. Hence, I am inclined to release the applicant on anticipatory bail. Hence the following order is passed:

ORDER

- I) The application is allowed.
- II) In the event of arrest of the applicant in connection with Crime No.I-389 of 2020 for the offences punishable under Section 306, 323, 504 of the I.P.C. registered with Shivajinagar Police Station, Beed the applicant be released on bail on furnishing PR bond of Rs.15,000/- with one solvent surety in the like amount and on condition that he shall attend the concerned police station on every Monday and Friday between 12 pm and 2 pm till filing of charge-sheet and shall not tamper the evidence and shall not ressurise the witnesses.