

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.107 OF 2020

Balu @ Balasaheb Gena Wagh and others	Applicants
versus	
The State of Maharashtra	Respondent

Mr.V.V.Purwant with Chandni Sachade for applicants.
Mr.M.G.Patil, APP, for State.
Mr.Amit Shitole, API, Tembhurni Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 15th January 2020

PC :

1. The applicants are apprehending arrest in CR No.691 of 2019 registered with Tembhurni Police Station, District Solapur for offences under Sections 306, 506 r/w 34 of Indian Penal Code, and under Sections 39 and 45 of Maharashtra Money Lending Act.

2. The FIR was lodged on 19th December 2019 by wife of the deceased Santosh Mhaske. It is alleged that the victim had committed suicide on 13th December 2019. The father-in-law of the complainant had borrowed loan of Rs.50,000/- with interest @ 5% per month for constructing house from applicant no.1. The victim had further borrowed Rs.30,000/- with interest of 10% per month. The repayment of loan was to be made after receipt of payment towards sugarcane. However, the applicants insisted for payment immediately. They also insisted that the victim should sell his land to them. The victim started consuming liquor. The victim had informed the complainant that the accused are threatening him by

demanding money and insisting for sale of land. On 13th December 2019, applicant no.2 visited the house of complainant and told her that on the next day he would take the victim to Madha for executing the sale deed since payment was not made. Thereafter the applicant no.3 also visited the house of victim and threatened the complainant that the complainant and others should accompany them to Madha for executing the sale deed. Applicant no.3 also intimidated the victim and his family that they would be forced to accompany them.

3. The applicants preferred applications for anticipatory bail before Sessions Court, which were rejected.

4. Learned counsel for applicants submitted that taking the grievances of the complainant as it is, the penal provision of Section 306 of IPC would not attract in this case. He further submitted that the FIR was lodged after a period of about seven days. Immediately after the incident a news item had appeared in the newspaper stating that the victim was addicted to liquor and he had committed suicide. ADR inquiry was conducted. The statement of father of victim was recorded in which he stated that the victim was addicted to liquor and committed suicide. The FIR was lodged subsequently with a changed version of the complainant. It is submitted that there are two groups in the village. One of the person from the opposite group who are siding with the complainant, had animosity with the applicants. Thus, in connivance false FIR has been lodged.

5. Learned APP submitted that during the course of investigation the statements of witnesses were recorded. All of them had stated that the victim and his father had borrowed the loan from applicant

no.1. The accused were threatening the victim and other family members and were insisting for sale deed. In these circumstances the deceased was compelled to commit suicide. Thus, there is abetment to commit suicide. The names of all the three applicants were mentioned in the complaint and overt act has been attributed to them. It is further submitted that non-cognizable complaint was lodged against the applicant on 9th January 2020 by the complainant. Learned APP also submitted that post mortem report does not mention that there were contents of alcohol in the stomach of deceased.

6. I have perused the FIR, documents annexed to the application and investigation papers. The incident of suicide had occurred on 13th December 2019. Immediately after the incident, statement of father of the victim was recorded on the same day. In the said statement he stated that his son had committed suicide by hanging himself in the house. He had also stated that the victim was addicted to consumption of alcohol. He used to be under influence of liquor and thus he has committed suicide. The first informant, however, had lodged the FIR after a period of seven days on 19th December 2019. Undisputedly the case of complainant is that one year ago the father of victim had borrowed loan of Rs.50,000/- and thereafter the victim had borrowed Rs.30,000/- with interest. The accused were allegedly demanding repayment of amount borrowed as loan to the victim. It is also stated that on the previous day the accused had threatened the complainant that they will have to execute a sale deed in respect to the property on the next day. However, in the statement of the father of victim recorded immediately after the incident, there was no whisper of such allegation. The FIR was

lodged after a period of 7 days from the date of incident. In the circumstances, case for subjecting the applicants to custodial interrogation is not made out. The applicants can be directed to co-operate with the investigation by attending police Station. Hence, protection u/s 438 of Cr.PC can be granted.

7. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application No.107 of 2020 is allowed and disposed of;
- (ii) In the event of arrest of applicants in connection with CR No. 691 of 2019 registered with Tembhurni Police Station, District Solapur, the applicants be released on bail on furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall report the Investigating Officer on 20th, 21st and 22nd January 2020 between 11 am and 1 pm and thereafter as and when called till filing of charge sheet.

(PRAKASH D. NAIK, J.)

MST