

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.63 OF 2021

SALIM S/O JALAL KHAN
VERSUS
THE STATE OF MAHARASHTRA

.....
Mr. S. C. Bhosle, Advocate for applicant.
Mr. S. Y. Mahajan, APP for the respondent – State.
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 2nd March, 2021

ORDER :-

. Present application has been filed for regular bail under Section 439 of the Code of Criminal Procedure by the applicant, who has been arrested on 06.12.2020 by Umari Police Station, District Nanded in connection with Crime No.242 of 2020 for the offence punishable under Section 306 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. S. C. Bhosle for applicant and learned APP Mr. S. Y. Mahajan for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the informant is the father of deceased, who has blamed the present applicant for the suicide committed by the son. The allegations in the

FIR would show that no such act was done by the applicant which would amount to abetment within the meaning of Section 107 of Indian Penal Code or Section 306 of Indian Penal Code. The applicant is a 28 years old young boy doing labour work. The informant says that his son had informed him that he would get about Rs.1,72,00,000/- from betting of Indian Premiere League, but then he says that the accused No.1 was asking him amount of Rs.25,00,000/-. Informant says that his son used to play online Indian Premiere League. Amount of Rs.25,00,000/- was stated to be outstanding from the deceased, which accused No.1 was demanding. The deceased was working as a lineman with Maharashtra State Electricity Distribution Company Limited (MSEDCL). A question, therefore, arises as to how he could have collected amount of Rs.25,00,000/-. When no overt act is attributed to the present applicant, he deserves to be released on bail.

4. Per contra, learned APP strongly opposed the application and submitted that the applicant and four other persons were harassing deceased by demanding money. Even the informant was taken by accused No.1 and others on 04-12-2020 and it was told to him that his son is bound to pay amount of Rs.25,00,000/- and it was also told that the amount was then reduced to Rs.14,00,000/-. That means, not only the harassment is to the deceased, but to the informant also. It

amounted to abetment. Therefore, he does not deserve to be released on bail.

5. At the outset, it is to be noted that the investigation is now complete and charge-sheet is filed. Though the offence that is presently registered against the applicant is under Section 306 read with Section 34 of Indian Penal Code, yet, the contents are required to be noted as to the circumstances in which the suicide is stated to have been committed. Informant – Devidas Rajepwad has lodged the report on 05.12.2020 stating that his son Sairam was serving as a lineman. About 15 days prior to the FIR, deceased had told the informant that he is going to receive amount of Rs.1,72,00,000/- from betting of Indian Premiere League. That means, he was involved in betting. Thereafter, he had received a phone call and then the deceased was found in a nervous mood. Informant asked as to what has happened, then he replied that his associates had committed fraud on him and they have torn/destroyed all the proofs regarding that Indian Premiere League and those persons were demanding amount of Rs.25,00,000/- from him. After 2-3 days, accused No.1 met informant and told that his son is liable to pay amount of Rs.25,00,000/-, but he is not picking the phone nor he is available and, therefore, he had requested that a meeting between deceased and accused No.1 should be arranged. When the

informant asked son as to what is the matter, then he told that he would be making arrangements for money. Informant found his son under stress. Thereafter, on 04.12.2020, at about 08.00 p.m., deceased Sairam had called father with food in the field. Informant asked his nephew to go to the field by taking food for deceased. Thereafter, at about 9.00 p.m., accused No.1 and one more person went in front of the house of the informant. Accused No.1 had then taken the informant on the motorcycle to Umari, Talegaon road. A car was standing in which two persons were sitting. The informant was made to sit in the car. They reiterated that the son of the informant is liable to pay amount of Rs.25,00,000/-, but then the amount was settled to Rs.14,00,000/-. Informant went from that place by requesting those persons to wait till next day. He told the said fact to his son on 05.12.2020 and assured that he would arrange for the money, but then around 10.30 a.m., he found that his son has committed suicide by hanging himself to a tree in the field.

6. As regards evidence collected against present applicant is that blank cheque signed by deceased drawn on Punjab National Bank. If he had no connection with any transaction with deceased then why he was possessing a blank cheque signed by deceased. Further, there is statement of one Jamil Baig Nazir Baig, who was asked by present

applicant to accompany him to Talegaon stating that his amount is due from a boy residing there. He was present at the time when informant was asked to give amount. These acts which are attributed towards the applicant, whether they would amount to abetment would be considered at the time of final hearing. Here, it is to be noted that a specific role has been attributed to the present applicant that he was contending that the said amount was due from the deceased, which initially was to the tune of Rs.25,00,000/-. The present applicant is only 28 years old, that too a labour. From where he would have brought that much amount is a question. Further, the statements of the family members of the deceased are supporting the FIR. Statement of other witnesses, who are not the family members, would also show that the present applicant was involved in betting and it appears that it is not a small betting or gaming as contemplated under the Maharashtra Prevention of Gambling Act, but it was online or in such a way that huge amount in lakhs of rupees were involved. No case is made out to exercise the discretion in favour of the applicant. Hence, the application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm