

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.367 OF 2020

1. Kishore Madanlal Jaiswal,
Age : 35 years, Occu. Business,
R/o Udangaon, Tq. Sillod,
District Aurangabad
2. Ghanshyam @ Sagar Madanlal Jaiswal,
Age : 30 years, Occu. Business,
R/o Udangaon, Tq. Sillod,
District Aurangabad

APPLICANTS

VERSUS

1. The State of Maharashtra,
through Ajintha Police Station,
Aurangabad
2. The Commissioner of Police,
Aurangabad

RESPONDENTS

Mr. Kale, Advocate representing Talekar and Associates for the applicants
Mr. V.M. Kagne, A.P.P. for the respondents/State

CORAM : MANGESH S. PATIL, J.

DATE : 19.01.2021

PER COURT :

Heard.

2. Apprehending their arrest in connection with Crime No.47 of 2020, registered with Ajintha Police Station, District Aurangabad for the offences punishable under Sections 306, 504, 506 read with Section 34 of

the Indian Penal Code, the applicants are seeking bail in the event of their arrest.

3. Shortly stated, the prosecution case is that the deceased alongwith the applicants was running a business establishment. The applicants were due huge amount to him. He was insisting for its payment. He had even approached the village dispute redressal Committee. The applicants had threatened him of dire consequences if he would open mouth before the Committee and utter about any payment/claim for money. It is further alleged that during the meeting, inspite of the deceased and his father having begged the applicants for payment, they refused to pay. The deceased was under stress. Because of all these incidents, he committed suicide.

4. The learned Advocate for the applicants submits that accepting the allegations at their face value, at the most it would be a civil liability which the applicants failed to clear. However, that cannot constitute abetment within the meaning of Section 107 of the IPC. There is nothing to be discovered by or recovered from them. Already the investigation is over and even the chargesheet has been filed. They are ready to cooperate the Investigating Officer. There are no criminal antecedents and the applicants may be granted anticipatory bail.

5. The learned A.P.P opposes the application. He submits that the offence is serious. There is ample evidence to indicate that the applicants

were due huge amount to the deceased. He was insisting for its payment. They were threatening him and even did not pay a single pai. Such conduct of the applicants cumulatively has led the deceased to take final step, which would constitute instigation within the meaning of Section 107 of the IPC.

6. I have carefully gone through the papers. It is indeed unfortunate that a person has lost his life. There is also enough evidence to show that the applicants were due money to him. But then, there is no logical and legitimate nexus between such dues and the act of the deceased to commit suicide. At the most, it could be said that such failure to repay money might have triggered the incident of suicide, but that cannot be prima facie said to be instigation as defined under Section 107 of the IPC. There is no evidence to demonstrate that the applicants even remotely were intending to lead the deceased to commit suicide.

7. Considering the nature of the allegations and the aforementioned facts and circumstances coupled with the fact that already the chargesheet has been filed, the application deserves to be allowed subject to usual terms and conditions.

8. The application is allowed. In the event of arrest of the applicants in connection with Crime No.47 of 2020 registered with Ajintha Police Station, District Aurangabad for the offences punishable under Sections 306, 504, 506 read with Section 34 of the Indian Penal Code, they

shall be released on bail on their executing personal recognizance for an amount of Rs.20,000/- (Rupees Twenty Thousand) each and furnishing a solvent surety each in the like amount subject to following conditions :

- a] They shall attend the concerned Police Station on two consecutive Wednesdays starting from 27.01.2021 between 11.00 a.m. and 1.00 p.m. and shall cooperate the Investigating Officer.
- b] They shall not tamper the evidence or influence the witnesses.

[MANGESH S. PATIL]
JUDGE

npj/ABA367-2020