

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 556 OF 2021

VIKRANT JAGANNATH JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. Joydeep Chatterjee, Advocate for the applicant,
Mr. V.M. Kagne, APP for the respondent.

CORAM : V.G. BISHT, J.

DATE : 11th August.2021.

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.064 of 2021, registered with Police Station, Shillegaon Dist. Aurangabad for the offences punishable under Sections 306, 506 r/w. 34 of IPC and Sections 39 and 45 of Maharashtra Money Lending Act.

2] The allegations against the present applicant is that, he is doing the business of money lending. Deceased - Ganesh was in need of money and accordingly, he took Rs. 7 Lakhs from the applicant as a loan. Further allegations are that, against the said loan, accused got sale deed of the land standing in the name of wife of Ganesh executed in the name of his brother-in-law and when they had approached the applicant for returning his money, the applicant demanded Rs. 40 Lakhs and

refused to transfer the land in the name of wife of deceased Ganesh. The applicant and others named in the FIR were also threatening the deceased as a civil suit was filed against them by him. Fed up with the harassment, the deceased committed suicide.

3] Mr. Chattarjee, learned counsel for the applicant, submits that a civil dispute is already pending in respect of the land. The learned counsel also invited my attention to the registered sale deed in respect of the said land in the name of the brother in law of the present applicant. Even according to learned counsel, that sale deed was later on corrected by another sale-deed. The learned counsel also pointed out para.12 of the Special Civil Suit No.374 of 2019, wherein, it is specifically mentioned that the plaintiff was ready to pay the loan amount of Rs. 2 Lakhs, whereas, in the FIR, it is alleged that the loan of Rs. 7 Lakhs was taken. Learned counsel further submits that even if the allegations in the FIR are taken at their face value, it does not constitute abetment as defined under Section 107 of IPC and consequently, Section 306 is not applicable.

4] Mr. Kagne, learned APP, strenuously contended that the details of the transaction are elaborately given in the FIR by the wife of the deceased. It is also apparent from the FIR the nature of threats given to the deceased apart from the suicide note. Thus, this is not a fit case where, the applicant needs to be given the benefit of provisions of section 438 of Cr.P.C.

5] I have perused the material available on record with the help of the parties. There is no dispute as to the execution of sale deed in respect of the disputed land. It is also to be noted that while the FIR

shows that hand loan of Rs. 7 Lakhs was given, the plaint averment in Special Civil Suit No. 374 of 2019 shows otherwise. Moreover, this is not a case where custodial interrogation of the applicant would be necessary. Even otherwise, the allegations in the FIR even if taken at their face value, prima facie, do not constitute the offence of 'abetment'. In the circumstances, the present application deserves consideration, with certain conditions.

6] Hence, I pass the following order.

: O R D E R :

[I] In the event of arrest of the applicant in connection with Crime No. 064 of 2021, registered with Police Station, Shillegaon, Dist. Aurangabad for the offences punishable under Sections 306, 506 r/w. 34 of IPC and under Section 39, 45 of Maharashtra Money Lending Act, the applicant be enlarged on bail on his furnishing PR Bond in the sum of Rs. 25,000/-, with one or two sureties in the like amount.

[II] The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

[III] He shall not tamper with the evidence.

7] The application stands disposed of in aforesaid terms.

**[V.G. BISHT]
JUDGE.**

grt/-