

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

ANTICIPATORY BAIL APPLICATION NO. 994 OF 2021

Shailendra Vasant Chirmade ... **Applicant**
Age 63 years, Occu: Business & Agri.
R/o 1862, Polan Peth, Chirmade Agencies,
Chitra Theatre Square, Jalgaon

VERSUS

The State of Maharashtra, ... **Respondent**
Through M.I.D.C. Police Station, Jalgaon
District Jalgaon.

Mr. Joydeep Chatterji, Advocate for the applicant,
Mrs. V. S. Chaudhari, A.P.P. for the State.

CORAM : V. G. BISHT, J.
RESERVED ON : 16th September, 2021

ORDER:

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 543/2021 registered with M.I.D.C. Police Station, Jalgaon, District Jalgaon for the offences punishable under Sections 306, 506 r/w 34 of the Indian Penal Code, 1860.

2. It is the case of the prosecution that informant's mother-in-law was owner of Gat No.91/2/E/2/23 admeasuring 2 H 23 R and wanted to sell the same. Accordingly, a broker by name Prakash Supudu Mali, (accused) offered that he would help them to sell the land and then introduced the applicant. The applicant agreed to purchase the said

land for a consideration of Rs.5,75,000/- and further that at the time of agreement for sale, an amount of Rs. 2 lakhs shall be given. Remaining amount was to be paid at the time of execution of sale deed. However, the prosecution alleges that after registration of agreement for sale, the accused Prakash Supudu Mali only gave Rs.50,000/- out of Rs.2 lakhs to the informant's mother-in-law and assured that remaining amount would be given later on after the permission for sale of said land is obtained from the Government.

3. The prosecution further alleges that remaining amount was never paid and rather they started threatening that they would implicate the family members including husband of the informant in a false case. It is further alleged that the applicant and other accused started pressurizing the husband of the informant namely Suklal Laxman Ghodke (since deceased) to execute the sale deed or else return Rs.2 lakhs with interest. Fed up with harassment, the deceased committed suicide on 19.01.2021. The informant accordingly lodged the report.

4. Mr. Joydeep Chatterji, learned counsel for the applicant, submits that necessary ingredients of offence (abetment) are prima facie missing. Although it is alleged that applicant and other accused never paid the earnest amount but the vendor namely informant's mother-in-law never made any complaint. There is no necessity of custodial interrogation and therefore, the present application may be allowed, urged learned counsel.

5. Mrs. V. S. Chaudhari, learned A.P.P., on the other hand, opposed the submissions by contending that despite entering into agreement for sale, the applicant failed to pay earnest amount. The applicant, in collusion with other accused, started harassing the deceased and being fed up with the harassment, deceased committed suicide. Learned A.P.P. also invited my attention to the suicide note collected during the course of investigation and submitted that investigation is in progress and there being no merit in the application, the same is liable to be rejected.

6. I have gone through the investigation papers. Agreement for sale is very much on record. The recitals clearly go to show that earnest amount of Rs.2 lakhs was duly received by the deceased and his mother. Therefore, prima facie, it does not appear that only an amount of Rs.50,000/- was given to the deceased or for that matter to his mother as is claimed in the first information report.

7. I have also gone through the suicide note. Although it is not very legible but it appears that as applicant was avoiding to make payment, he committed suicide. It is also alleged in the said suicide note that earlier also he was deceived by the applicant. He was paid Rs.10,000/- where as later on he was required to shell out Rs.1.25 lakhs, proof of which is lying in his house. However, no such proof is produced on record. There is no element of instigation or threats decipherable from the suicide note.

8. Prima facie, I do not find sufficient material on record to hold that it was the applicant who abetted the death of the deceased. Even otherwise, everything is in the custody of the investigating officer thereby making custodial interrogation redundant.

9. In view of the above, I am inclined to allow the application with certain conditions. Hence, following order.

O R D E R

- i. In the event of arrest of the applicant in connection with Crime No. 543/2021 registered with M.I.D.C. Police Station, Jalgaon, District Jalgaon for the offences punishable under Sections 306, 506 r/w 34 of the Indian Penal Code, 1860, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.25,000/- [Rs. Twenty five thousand only], with one or two solvent sureties in the like amount.
 - ii. The applicant shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
 - iii. The applicant shall not tamper with prosecution evidence in any manner.
10. Application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC