

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

22 ANTICIPATORY BAIL APPLICATION NO.1083 OF 2021

Deepak s/o Popatrao Aware

...Applicant.

VERSUS

The State of Mahanand

...Respondent.

...
Mr. Joydeep Chatterji, Counsel for applicant
Mr. S.B.Narwade, APP for respondent-State

...
CORAM : PRAKASH D. NAIK, J.

DATE : 20th OCTOBER, 2021

PER COURT:

1] This is an application for pre-arrest bail in CR No.0064 of 2021 registered with Shillegaon Police Station, Tq.Gangapur Dist.Aurangabad for the offences punishable under Sections 306 and 506 read with Section 34 of Indian Penal Code (for short, 'IPC') and Sections 39 and 45 of Maharashtra Money Lending Act. The First Information Report (for short, 'FIR') was registered on 24th March, 2021.

2] The complaint was lodged by Tukaram Pathare, the brother of the deceased, alleging that the co-accused Vikrant Jadhav is a money lender and loan was advanced to the deceased on higher rate of interest. The deceased Ganesh had obtained loan of rupees 7 lakhs from Vikrant Jadhav. The property, which is in the name of the wife of the deceased was transferred as security in the name of the applicant, who is brother-in-law of Vikrant Jadhav. Subsequently, Vikrant Jadhav demanded money.

The victim was insisting that the property should be returned to him. Vikrant Jadhav and others had allegedly threatened the victim from time to time. Threats were also issued by applicant. On 23.03.2021, the deceased forwarded a whats-app message stating that he is committing suicide on account of harassment by accused. The suicide note has been recovered during the course of the investigation. The victim committed suicide.

3] Learned counsel for the applicant submit that Section 306 of IPC is not attracted in this case. The loan was advanced by the co-accused to the victim. There is a registered sale deed executed in favour of the applicant. Co-accused Vikrant Jadhav had preferred an application for anticipatory bail before this Court, which has been allowed by the order dated 11th August, 2021.

4] Learned APP submits that the applicant had played vital role in the offence. Statements of witnesses were recorded during the course of the investigation, which would indicate that the applicant had instigated the victim and was responsible for his death. He further submitted that the statement of the witness to whom the whats-app message was forwarded by the victim has been recorded. The documents on record also indicate that the sale deed was executed with the applicant. Suicide note mentions that the applicant was also involved in threatening the victim. The sale deed was executed in favour of the applicant. The co-accused is

involved in money lending without license and was charging higher rate of interest. The property was not returned to the victim and in these circumstances, he was compelled to commit suicide.

5] Learned counsel for the applicant in re-joinder submits that the deceased had filed a Civil Suit bearing Spl.Civil Suit No.374 /2019 on 15th October, 2019. The said suit is pending. That there is a variation in the contents of the FIR and the suit filed by the victim. It was mutually agreed between the parties to execute sale deed for a consideration of rupees 7 lakhs and the stamp duty was paid on the valuation of the Government. The property was willingly handed over to the purchaser after effecting the sale deed. Subsequently, the price of the property had escalated and therefore, the victim was interested in getting back the property.

6] It is pertinent to note that according to the complainant, the loan was advanced by Vikrant Jadhav and threats were issued by accused. Vide order dated 11th August, 2021, the application preferred by Vikrant Jadhav has been allowed by this Court. While allowing the said application, it was observed that there is no dispute about execution of the sale deed. The FIR shows that the hand loan of rupees 7 lakhs was given. Averments in the plaint of civil suit shows otherwise. It is not the case for the custodial interrogation of the accused.

7] Considering this factual matrix of the matter, the custodial interrogation of the applicant is not warranted. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application Nos.1083 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in CR No.0064 of 2021 registered with Shillegaon Police Station, Tq.Gangapur Dist.Aurangabad, the applicant be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall attend the Investigating Officer, as and when called for, till filing of the charge-sheet.
- (iv) Application stands disposed of.

(PRAKASH D. NAIK, J.)