

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

922 ANTICIPATORY BAIL APPLICATION NO.1239 OF 2021

**SANJAY RATAN ZODAGE ALIAS SANJEEV RATTAN ZODGE
VERSUS
THE STATE OF MAHARASHTRA**

...
Mr. V.D.Salunke, holding for Mr. Mayur V.Salunke, Counsel for applicant
Mr. A.S.Shinde, APP for respondents-State

...
CORAM : PRAKASH D. NAIK, J.
DATE : 26th NOVEMBER, 2021

PER COURT:

1] The applicant is apprehending arrest in Crime No.142/2021 registered with Mehunbare Police Station, District Jalgaon for the offences punishable under Sections 306, 385, 389, 323, 504, 506 read with Section 34 of the Indian Penal Code (for short, "I.P.C.").

2] The First Information Report (for short, "F.I.R.") was registered on 16th August 2021 by the wife of the victim. The applicant/accused is husband of cousin of complainant. The accused is residing at Pune. His daughter was residing with complainant for a period of three years for education. The husband of complainant was engaged for construction of house of accused. Under the pretext of not taking the construction, accused created dispute and lodged complaint with police. The accused also lodged complaint that victim had illicit relationship with daughter of

accused. The complainant and his husband visited police station. They were taken to their residence by accused and his wife for settlement. The daughter of accused had alleged that she had physical relationship with complainant's husband. The applicant and others assaulted complainant's husband. The accused demanded 6 lakhs towards construction of house and four lakhs ten thousand for sexual assault on daughter of accused. The applicant/accused brought document, notarized stating that complainant would pay amount of 10 lakhs to accused. The victim attempted to arrange money. Amount was to be given by 11.08.2021. Applicant threatened victim. He expressed his frustration to complainant. On 16.08.2021, he committed suicide by hanging.

3] Learned Counsel for the applicant submitted that even if the allegations are assumed to be true, the offence under Section 306 of the I.P.C. is not made out. Mere execution of a document as stated above, would not amount to abetment to commit suicide. The applicant is employed in Income Tax Department as a Superintendent and his arrest would jeopardize his employment. The victim is the relative of applicant. Accused No.2 is the wife of applicant. Victim was appointed as contractor for construction of house by applicant. Amount of 6 lakhs was transferred to victim. He did not perform his duty. Amount was demanded from him. Notarized agreement was executed on 02.08.2021, that amount given for construction would be returned before 11.08.2021.

There was contractual agreement between wife of applicant and deceased. No threats were issued to him. The allegations in FIR are after thought. The applicant has undergone two Angioplasty for having 95% blockages in veins of heart.

4] Learned A.P.P. submitted that specific role has been attributed to the applicant. The facts as narrated in the F.I.R. clearly constitute offence under Section 306 of the I.P.C. The offence is of serious nature. Due to harassment by applicant, victim had committed suicide. Statements of witnesses were recorded during the course of investigation. He also pointed out the complaint lodged by Suvarna Sanjay Zodge, wherein, it was stated that although the amount was paid for construction of house. The work was not completed by Rohidas Masre. Settlement agreement was executed with the victim under coercion. The victim was under constant pressure and under these circumstances, he was compelled to commit suicide.

5] Prima facie, it is debatable whether Section 306 of IPC would be applicable against the applicant/accused. The investigation may proceed without subjecting applicant to custody. It appears there was contractual transaction, relating to construction of house. Amount was transferred to victim. The applicant is Government employee. Settlement agreement was dated 02.08.2021. It was executed between Rohidas Masre (victim) and Suvarna Zhodge (wife of applicant). It is stated that 6 lakhs were

transferred to victim for construction of house. He had agreed to transfer the amount before 11.08.2021. Victim is signatory to documents. It's photograph is pasted on document. Wife of applicant has been granted pre-arrest bail. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application No.1239 of 2021 is allowed.
- (ii) Interim order dated 21st October, 2021 is confined.
- (iii) In the event of arrest of the applicant in Crime No.0142/2021 registered with Mehunbare Police Station, District Jalgaon, he shall be released on bail on executing PR.bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iv) Applicant shall report Investigating Officer on 6th, 7th and 8th December, 2021 at 11.00 am to 01.00 pm and thereafter, as and when called for, till filing of charge sheet.
- (v) Application stands disposed of.

(PRAKASH D. NAIK, J.)

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