

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1399 OF 2021

1. Chandrakant s/o Bhivaji Dhanve

2. Babji s/o Sakharam Bele

...Applicants

Versus

The State of Maharashtra

...Respondent

...

Advocate for the Applicant : Mr.S. S. Gangakhedkar

APP for the Respondent – State : Mr.A. V. Deshmukh

...

CORAM : PRAKASH D. NAIK, J.

DATE : 15th DECEMBER, 2021

PER COURT :-

1. The First Information Report (for short “F.I.R.”) has been registered with Kalamnuri Police Station, District Hingoli for the offences punishable under Sections 306, 323, 504 read with Section 34 of the Indian Penal Code (for short “I.P.C.”).

2. The first informant is the wife of the deceased. It is alleged that the deceased had obtained loan for household expenses and agricultural purposes. The accused were insisting that the loan should be repaid immediately. He was threatened that in the event loan is not repaid, the property be

transferred in the name of the accused. The victim has allegedly consumed poison and committed suicide.

3. Contention of the learned Counsel for the applicants is that, Section 306 of the I.P.C. is not attracted in this case. Although the incident had occurred on 9th October 2021, the F.I.R. was lodged on 28th October 2021.

4. Learned A.P.P. pointed out the observations made in the order passed by the learned Sessions Court while rejecting the application for anticipatory bail. It is submitted that the victim had made statement to the witness in the form of dying declaration and a chit was also written by him alleging that the accused had indulged in illegal money lending business. Learned APP placed for consideration the investigation papers and pointed out the statements of witnesses to whom the victim has disclosed that the accused are demanding money and insisting for transfer of property. The victim had consumed poison. The statements are treated as dying declaration.

5. There was an agreement between the victim and Chandrakant Dhanve (applicant No.1). As per the said agreement the victim had sold the property for consideration. The balance consideration was due. The version of the

complainant's witnesses is contrary to agreement dated 02.12.2020. However, considering the factual aspects, it is debatable whether Section 306 of the I.P.C. is attracted. Custodial interrogation of the applicants is not necessary.

ORDER

(i) Anticipatory Bail Application No. 1399 of 2021 is allowed.

(ii) Interim order dated 02.12.2021 is confirmed.

(iii) In the event of arrest of the applicants in Crime No.295/2021 registered with Kalamnuri Police Station, District Hingoli, the applicants be released on bail on executing P.R. bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

(iv) The applicants shall report Investigating Officer on 22nd 23rd and 24th December, 2021 between 11.00 a.m. to 01.00 p.m. and thereafter, as and when called for.

(v) Application stands disposed of.

**(PRAKASH D. NAIK)
JUDGE**