

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1338 OF 2021

Akash Shashikant Mohite Applicant
Versus
The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1264 OF 2021**

Shubham Ganesh @ Ramsing Fatfatwale Applicant
Versus
The State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1254 OF 2021**

1. Rekha Sunil Dolare
2. Rasika Datta Gaikwad Applicants
Versus
The State of Maharashtra Respondent

Mr. Rahul B. Vijaymane for Applicant in ABA/1338/2021.
Mr. Priyal G. Sarda for Applicant in ABA/1254/2021.
Mr. Rushikesh S. Kale for Applicant in ABA/1264/2021.
Smt. A. A. Takalkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 30th JUNE, 2021
(Through Video Conferencing)

1. All these applications are decided by this common order because they arise out of the same offence and the same

investigation. Applicants are referred to by their names. A.B.A.No.1338 of 2021 is filed by Akash Shashikant Mohite, A.B.A.No.1264 of 2021 is filed by Shubham Ganesh @ Ramsing Fatfatwale and A.B.A.No.1254 of 2021 is filed by Rekha Dolare and Rasika Gaikwad. Rasika is Rekha's daughter.

2. Applicants are seeking anticipatory bail in connection with C.R.No. 221 of 2021 registered at Sadarbazsar Police Station, Solapur, on 05/04/2021, under section 306 of the Indian Penal Code (for short 'IPC') and under section 45 of the Maharashtra Money Lending (Regulation) Act, 2014.

3. Heard Shri. Rahul Vijaymane, learned counsel for the Applicant in ABA/1338/2021, Shri. Priyal Sarda, learned counsel for Applicant in ABA/1254/2021, Shri. Rushikesh Kale, learned counsel for the Applicant in ABA/1264/2021 and Smt. Takalkar, learned APP for the State.

4. The First Information Report (for short 'F.I.R.') is lodged by one Sunita Gawali in respect of commission of suicide by her son. The F.I.R. mentions that, deceased Deepak had taken money from different people as loan. Allegations are that, he had

taken Rs.50000/- from the applicant Rekha Dolare, Rs.20000/- from the applicant Akash Mohite and Rs.5000/- from the applicant Shubham. It is alleged that, he had taken money on interest, but he was unable to return the money and, therefore, all of them caused harassment. There are allegations that, all these applicants had abused and beaten him on different occasions demanding their money. The deceased had committed suicide by hanging himself on 20/03/2021. On this basis the F.I.R. was lodged. It is alleged that, because of harassment caused by all of the accused, deceased had committed suicide.

5. Learned counsel for the applicant Akash submitted that, deceased was working with the applicant Akash in his small music band. They were poor people and the deceased had taken some money from him. The applicant had merely demanded his money back because he was in dire need of money, particularly, in the time of imposition of lockdown.

6. Learned counsel for the applicant Shubham submitted that the applicant was 22 year old student. He had given painting job to the deceased and for that purpose he had paid Rs.3000/- to

him. The deceased had not completed the job and had not returned the money and, therefore, the applicant Shubham merely demanded his money back.

7. Learned counsel for the applicants Rekha and Rasika submitted that the applicant Rekha was working as a helper in a hospital and she herself is financially very poor. Therefore, the small amount which she had given to the deceased was important for her and, therefore, demanding her money back was not an offence. He submitted that the applicant Rasika is 21 year old and has 7 months old baby and, therefore, leniency may be shown to them. He submitted that, in any case, offence is not made out against either of these applicants.

8. Learned APP opposed this applicant and relied on the averments made in the F.I.R. She produced a statement of Ashok who was father of the deceased. His statement was recorded on 06/04/2021. There are statements of Sunil Shinde and Balu Kamble recorded on 06/04/2021. All these statements show that the applicants had demanded money back. For that purpose they had beaten and abused the deceased. There are allegations that,

some of them had even threatened the deceased.

9. I have considered these submissions. Important feature in this case is that the incident had taken place between night of 19 and 20/03/2021, but the F.I.R. was lodged on 05/04/2021. Thus, there is a strong possibility that it is lodged after deliberation and as an afterthought to implicate the applicants. However, this fact will have to conclusively decided during trial. At this stage, there is no explanation coming forth from the witnesses about this delay.

10. In any case, the allegations are restricted to demand of money advanced by all these applicants to the deceased. The applicants themselves were financially poor and money advanced to the deceased in his bad days meant a lot for applicants themselves. Therefore, it is doubtful whether demanding their money back, in the context of the present case would fall within the meaning of Section 107 r/w. 306 of IPC. In this view of the matter, custodial interrogation of the applicants is not justified. They can be protected.

11. Hence, following order is passed: -

ORDER

- (i) In the event of their arrest in connection with C.R.No. 221 of 2021 registered at Sadarbazar Police Station, Solapur, the applicants are directed to be released on bail on their furnishing P.R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- (ii) All Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)