

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.858 OF 2019

Shakti Mahadeo Sable	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
CRIMINAL APPLICATION (APPP) NO.983 OF 2019
(For Intervention)
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.858 OF 2019**

Sambhaji Laxman Khalate	... Intervenor
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In the matter between :-

Shakti Mahadeo Sable	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Piyush R. Toshnival, Advocate for Applicant.
Smt. M. H. Mhatre, A.P.P. for Respondent-State.
Mr. Vilas Tapkir, Advocate for Intervenor.

CORAM : A.S. GADKARI, J.

DATE : 27th July 2021.

(Through Video Conferencing)

PC. :

1. This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No.1155 of 2018, dated 1st December, 2018, registered with Chakan Police Station, Dist. Pune under Section 306 r/w 34 of the Indian Penal Code.

2. Heard Mr. Toshnival, learned counsel for the Applicant, Smt. Mhatre, learned A.P.P. for the State and Mr. Tapkir, learned counsel for the Intervenor. Perused record.

3. The First Information Report is lodged on 1st December 2018 by Mr. Sambhaji Khalate, the brother of Dattatray @ Datta Khalate (deceased). It is the prosecution case that, the first informant and deceased along with their family were residing together at village Bahul, Taluka Khed, Dist. Pune. That, the informant is agriculturist and deceased was in the business of Fabrication. A year prior to lodgment of crime, they had purchased four and half ares of land from the Applicant and had completed the transaction. The said land was purchased in the name of deceased. The said land is situated at prima location in the village and therefore the Applicant was demanding the said land back. As the deceased had purchased the said land for his business purpose, the informant and deceased used to refuse to the said demand of the Applicant. Because of it the Applicant for some or the other reason used to defame the informant and deceased in the village.

That, on 30th November 2018, at about 8.30 p.m., when all the family members were at their home, Bharat Shelke (co-accused) gave a call to deceased on his mobile phone and called him near Sable Vasti. At that place, Applicant, Meena Bharat Shelke, Master Pinu Bharat Shelke (juvenile) were present. At that time, on a false pretext Applicant asked deceased, as to why

he assaulted daughter of Bharat Shelke and all the said persons assaulted deceased with fists, kick blows and sticks on his face and back. The said fact was informed by deceased after returning to home.

On 1st December, 2018, at about 9.30 a.m., deceased Datta with a view to lodge a complaint of the earlier nights incident with Chakan Police Station left house. The informant also left his house for supplying milk. When the informant went in the chowk of the said village Bahul, he noticed his brother Datta there and asked him, as to why he has not gone to police station, whereupon Datta in a frightened condition told him that, at that place Bharat Shelke (co-accused) and his brother-in-law Shashikant More threatened him that, if he lodges complaint to the police station, they would cut his hands and legs. Datta told him to go to home and left that place. The informant thereafter at about 10.30 a.m. received a phone call on his mobile phone from Bharat Shelke and called informant to his home. Bharat Shelke also threatened the informant and told him not to lodge complaint with the police. The informant went home and at about 11.00 a.m. and gave a call to his brother Datta (deceased) on his mobile phone. Datta did not accept the said phone call and therefore the informant went to the shop of Datta to see him. Datta was not present at the shop and therefore the informant went to the field. He noticed motorcycle of Datta parked near the agricultural field. There he noticed Datta has committed suicide by hanging to a Babul tree with

the help of a rope. The informant therefore called a few persons from the village, took down Datta from the said tree and took him to the rural hospital at Chakan. The doctors there after examining, declared Datta dead on arrival. During the search of the person of deceased, a suicide note was found in the pocket of his trouser, which the informant handed over to the police and lodged the present crime.

4. The pre-arrest bail Application preferred by the Applicant before the Sessions Court at Khed, Rajgurunagar came to be rejected by the said Court, by its order 26th March 2019. By an Order dated 7th June 2019, the Applicant was granted interim relief by this Court.

5. Mr. Toshnival, learned counsel appearing for the Applicant submitted that, though the suicide note dated 1st December, 2018 of deceased Datta puts all the blame on the Applicant, it is the co-accused Bharat Shelke and his son (juvenile) are the real culprits in the present crime. He submitted that, in her statement, witness Smt. Sandhya Khalate has stated that, a month prior to lodgment of crime she had been to be the house of Bharat Shelke at about 7.30 p.m., when she noticed deceased Datta Khalate chitchatting with the grandmother of the daughter (name concealed) of Bharat Shelke, who was a minor outside their house. She noticed that, the said minor was watching television inside the room in objectionably dressed (her T Shirt was raised up) and therefore she slapped her. That, on 30th November 2018, she

saw that, the deceased had touched feet co-accused Bharat Shelke and was seeking pardon for his acts. At that time, son (juvenile) of Bharat Shelke slapped deceased and thereafter immediately on the next day in the morning, Datta committed suicide. He submitted that, the Applicant has no role to play in abatement to commit suicide by Datta (deceased). That, though in the suicide note deceased has stated that, he purchased land from Applicant by paying Rs.17,50,000/-, as a matter of fact, the Sale Deed mentions valuation of the said land as Rs.3,75,000/- and therefore the statement of the deceased in the suicide note can not be accepted. He further submitted that, Applicant never damaged reputation of deceased in the village and it is the co-accused Bharat Shelke who after coming to knowledge of the misdeed of the deceased had slapped him and thereafter immediately the deceased has committed suicide. He further submitted that, the police have already completed investigation and submitted charge-sheet in the present case and therefore custodial interrogation of the Applicant is not necessary. He, therefore prayed that, the Applicant may be protected by pre-arrest bail.

6. Per contra, the learned A.P.P. vehemently opposed the Application and submitted that, the offence alleged against the Applicant is serious in nature. That, there is sufficient material available on record in the form of statements of witnesses, which shows clear complicity of the Applicant in the present crime. She submitted that, though the sale deed dated 20th October

2015 mentions Rs.3,75,000/- as consideration for purchase of the landed property by deceased from the Applicant, the deceased in his suicide has stated that, he had paid Rs.17,50,000/- to the Applicant. The said aspect of amount paid by the deceased to the Applicant has to be investigated. That, the allegation of the deceased in his suicide note about he was being defamed by the Applicant has also to be investigated and it can not be possible without there being thorough investigation of the Applicant. She submitted that, though the police have submitted charge-sheet in the matter, the investigation pertaining to the Applicant could not be completed for want of his custodial interrogation. She therefore prayed that, the present Application may be dismissed.

7. Perusal of record discloses that, the deceased in his own handwriting has left behind a suicide note dated 1st December, 2018. In the said suicide note the deceased has stated that, he treated, relied and believed on the Applicant more than his real brother, however he failed to understand what revenge the Applicant had taken. Whatever amount the Applicant demanded for the transaction of his land, the deceased paid Rs.17,50,000/-. The Applicant even did not reduce Rs.50,000/- in it. That, Rs.12,000/- have been paid more to the Applicant. That, though the deceased did not do anything, the Applicant unnecessarily spread rumors and defamed him. That, what the Applicant has achieved by it is known to him only. The deceased had

thereafter requested the Applicant not to cause trouble to the members of his family as he has little children.

The version of deceased in a suicide note is duly corroborated by the statement of Smt. Sushma Dattatraya Khalate, wife of deceased. She has stated that, the deceased had purchased four and half ares of land from the Applicant. That, after coming on leave to the village, the Applicant was demanding the land back, however the deceased was not returning it. The Applicant therefore used to threaten deceased and defamed him. The said fact was told to her by the deceased himself. That, on 30th November 2018, at about 8.30 p.m. Bharat Shelke (co-accused) had called her husband. That, at 10.00 p.m. her husband came back and she noticed him under tension. He told her that, when he had been to the house of Bharat Shelke, he was assaulted by Bharat Shelke and his family members. The statement of Smt. Sandhya Khalate duly corroborates the fact of slapping to deceased by the son (juvenile) of Bharat Shelke (co-accused) on 30th November 2018.

8. It is thus clear that, the abatement to commit suicide to Dattatray is a cumulative effect of two incidences namely, assault by co-accused Bharat Shelke and his family members and the threats extended by Applicant and the rumors/defamation of the deceased caused by the Applicant in the village. Thus the reason for commission for suicide is the constant harassment caused

by the Applicant to the deceased. The suicide note dated 1st December, 2018 clearly mentions about the reason for committing of suicide by the deceased and the abatement caused by the Applicant for the same. The statements of other witnesses also corroborates the prosecution case. It appears that, due to the said reasons, the deceased was left with no other alternative than to put an end to his life by committing suicide.

As has been rightly pointed out by the learned A.P.P, though the sale deed dated 20th October 2015 executed between the deceased and Applicant mentions consideration of Rs.3,75,000/-, the deceased in his suicide note has categorically stated that, he had paid Rs.17,50,000/- to the Applicant for the said transaction. This material discrepancy in payment made by the deceased has to be thoroughly investigated and the same is not possible without there being custodial interrogation of the Applicant. There is sufficient material available on record to reveal clear complicity of the Applicant in the present crime.

9. In view of the aforestated facts and after taking into consideration the gravity of the offence and serious allegations against the Applicant, this Court is of the opinion that, the Applicant can not be protected by pre-arrest bail.

10. Application is accordingly rejected.

11. In view of the disposal of present Application, Criminal Application No. 983 of 2019, does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]

MANOJ R
TANDALE

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