

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2637 OF 2022
(modified as per order dated 30/09/2022)

Deepak Dagdu Wagh .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Ms. Farheen Chaudhary a/w Ms. Noori Khan for the Applicant.
Ms. A.A. Takalkar, A.P.P. for the State/Respondent.
Mr. M.R. Gholap, PSI, Mulund Police Station.
...

CORAM: BHARATI DANGRE, J.
DATED : 27th SEPTEMBER, 2022

P.C:-

1. The applicant seek protection from arrest in connection with C.R. No. 38 of 2022, registered with Mulund Police Station, when one Chetan Parmar committed suicide in his shop and left a chit in his pocket, where he attributed three persons as responsible for he taking the extreme step, as he was tired of giving 10% interest on the loan taken by him.
2. Heard the learned counsel for the applicant, who rely upon the decision of the Bombay High Court in case of ***Dilip Ramrao Shirasao and others v. State of Maharashtra, reported in 2016 ALL MR Criminal 4328***, in support of her submission that *mensrea* should be established before a person is accused of an offence under section

306 and there could be some act attributed to an accused either direct or indirect to connect him to the subject crime. She also place reliance on the decision of Apex Court in case of ***Sanju Alias Sanjay Singh Sengar v. State of Madhya Pradesh AIR 2002 SC, 1998.***

Further the learned counsel would submit that the other two persons, who have been named in the chit by the deceased namely Domnic Fernandes and Rekha Fernandes are already admitted to protection from arrest by order dated 21/03/2022 (ABA No.731 of 2022).

3. I see no reason why the same reasoning cannot be made applicable to the present applicant, when the prosecution *prima facie* is unable to demonstrate any instigation, direct or indirect or any incitement for the deceased to commit an offence, with the proximity, which would have amounted to abetment, as within meaning of section 107 of IPC .

4. Hence the following order.

: **ORDER** :

(a) Application is allowed.

(b) In the event of arrest, the applicant Deepak Dagdu Wagh in connection with C.R.No.38 of 2022 registered with Mulund Police Station, shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like

amount.

(c) The applicant shall report to the Investigating Officer for four days from 3/10/2022 at 3:00 p.m, and thereafter as and when called by the Investigating Officer.

(d) The applicant shall provide his address, and the contact details to the Investigating Officer, and also keep him updated of any change.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)