

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

ANTICIPATORY BAIL APPLICATION NO.895 OF 2023

BAPU BALU @ BALASAHEB MANDE
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. N. S. Ghanekar
APP for Respondents: Mr. V. S. Badakh

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CORAM : R.M. JOSHI, J

DATE : AUGUST 29, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 458 of 2023 registered with Shrigonda Police Station, Tq. Shrigonda, Dist. Ahmednagar for the offences punishable under Sections 306 and 506 of the Indian Penal Code.

2. The mother of deceased Kishor lodged report with the police by stating that deceased was working with Tirumala Multi-state Co-operative Bank Ltd wherein Applicant is also employed. It is alleged therein that deceased used to collect money for its deposit with the bank. It is further alleged that Applicant had advised him to deposit money in the FD of Bank. The deceased, therefore, sold the cow and gave sum of Rs. 6 lacs to

the Applicant. Whenever the informant used to question about the receipts thereof, she was told by deceased that Applicant has assured to give receipts but actually he never gave. It is further stated that on 02.05.2023 the deceased was found depressed and when he was questioned about the same he told informant that he used to give money collected from the customers to the Applicant for its further deposit in the bank but the Applicant has not given receipts thereof. The grievance was also made by him in respect of the receipts towards FD. Thereafter son of the informant consumed poisonous substance on 02.05.2023 and died during the course of treatment on 08.05.2023.

3. Learned Counsel for the Applicant submits that there is no support to the allegations made against him in the FIR. According to him, both Applicant as well as deceased were working in the bank and that the Applicant did not hold any superior position in order to call upon the deceased to deposit any money and to accept the same. It is submitted that allegations against the Applicant that he failed to deposit the money which was collected by the deceased from the

customers, is not supported by any complaint from the customers for non deposit of the same. Thus, it is his contention that this could be a case of false implication.

4. Learned APP opposed the application by submitting that there is evidence to show that the present Applicant had collected the mobile phone found while he was admitted in the hospital and the whatsapp chats between them is deleted. Thus, suspicion is created against him on the basis of said alleged act.

To counter the said submissions, learned Counsel for the Applicant has placed on record transcript of the conversation as well as entire data in the mobile phone of the Applicant which indicate that he did not delete the single conversation between them. Learned APP on the basis of report of the investigating officer has confirmed the said fact that the Applicant did not delete any call history from his own mobile phone including history of the conversation with deceased.

5. The basis of suspicion against present Applicant for showing his involvement in the crime is

that he obtained the mobile phone of the deceased and conversation with Applicant was deleted. This allegation does not hold any water as the Applicant had maintained entire call history with the deceased and in his own mobile phone and also surrendered it to investigating officer. If at all Applicant wanted to destroy evidence against him, there is no reason why he would maintain the said record in his mobile phone and hand over it to the investigating agency. Thus, at this stage, this Court finds no substance in the allegations against him that the Applicant herein has deleted the conversation in the mobile phone of deceased. Further mobile phone of deceased was not seized at the instance of Applicant and hence, deletion of data from the said mobile cannot be attributed to the Applicant.

6. As far as allegations in the FIR about Applicant receiving money from the deceased for the purpose of FD as well as the amounts collected from the customers and not depositing the same with the bank are concerned, there is absolutely no material placed on record to indicate so. Had it been a case that the amounts collected from the customers is not deposited

in the bank, there would be complaints of said customers. Perusal of the investigation papers do not show any such complaints being made by any of the customers. This Court, *prima facie* finds no substance in the allegations against present Applicant.

7. *Prima facie* barring these allegations which are not supported with any evidence, there is no material to indicate that Applicant ever intended that deceased should commit suicide. Hence, this is a fit case to protect liberty of Applicant. Hence, application is allowed by confirming order dated 21st June, 2023.

(R.M. JOSHI, J.)

Malani