

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

**BAIL APPLICATION NO.1400 OF 2023
WITH
CRIMINAL APPLICATION NO.3429 OF 2023**

**UDAY VENKATRAO KULKARNI
VERSUS
THE STATE OF MAHARASHTRA**

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Mr. Avinash R. Borulkar, Advocate for the Applicant.

Mr. S. P. Deshmukh, APP for Respondents-State.

Mr. Ajit Gaikwad Patil, Advocate for Respondent for Orig.
Complainant.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 08th SEPTEMBER, 2023.

PER COURT:-

1. By this application, the applicant seeks regular bail in connection with Crime No.301/2023 registered with MIDC CIDCO Police Station, Dist. Aurangabad for the offence punishable under Sections 306, 504 and 34 of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Kanchan Kishor Muley, who alleges that her husband and the applicant had purchased plot from CIDCO and construction was raised by them in the portion of the plot as agreed. It is further alleged that the applicant has illegally obtained construction permission from Corporation without obtaining consent from her husband and raised illegal construction due to which the damage is caused to the constructed portion of the house of the informant. It is further alleged that on

20.06.2023 the accused persons abused the deceased and family members in filthy language. Consequently, on 28.06.2023 the husband of the informant ended his life by committing suicide. A suicide note written by deceased was found wherein it is clearly indicated that because of abusive language used by the accused persons against him and his mother, he is frustrated hence, committing suicide. In pursuance of the aforesaid information, Crime No.301/2023 came to be registered with MIDC Cidco Police Station at Aurangabad. The applicant has been arrested on 13.07.2023. The plea of the applicant for grant of regular bail came to be rejected by the Sessions Court by order dated 25.07.2023. Hence, the present bail application.

3. Mr. Borulkar, learned Advocate appearing for the applicant would submit that the applicant and husband of the informant have commonly purchased the property from CIDCO and both of them have raised constructions in their defined portion after obtaining necessary permissions. One common wall was also constructed. He would submit that in the year 2020-21 the applicant sought permission from the Corporation for construction of second floor and on the basis of such permission, he has initiated further construction. However, the husband of the informant was opposing such construction. He would further submit that because of that, some quarrel took place between the applicant and family members of the informant on 20.06.2023. Unfortunately on 28.06.2023 the husband of the informant ended his life by committing suicide. He would submit that there is nothing to indicate that the applicant has abated for commission of suicide. The dispute between the neighbors cannot be stretched to draw conclusion that the applicant was intending to abate

commission of suicide. He would, therefore, submit that Section 306 of the Indian Penal Code would not attract in the present case.

4. The learned APP however strongly opposes the application. He would submit that the deceased has written a suicide note, wherein he has clearly mentioned that because of the abuse and filthy language used by the accused persons towards him and his mother he decided to end his life. Therefore, the learned APP would submit that there is direct nexus between the act committed by the accused persons and suicide of the deceased.

5. The learned Advocate appearing for the informant supports the contention of the learned APP and would submit that the accused persons have illegally obtained permission by misleading the authorities and caused damage to the property of the deceased. Further they used abusive and filthy language against deceased and his mother which itself is sufficient to infer abatement of suicide.

6. Having considered the submissions advanced, apparently the applicant and the husband of the informant had jointly purchased a plot. They had divided the portion for their separate construction and accordingly, by following due process of law the constructions were raised. A common wall is also built in between the house. It appears that, when the applicant raised construction of second floor, the disputes started amongst them. The applicant obtained permission for construction of the second floor from the Corporation, which was objected by the husband of the informant. It appears that, the authorities have not taken

cognizance of the complaints made by the informant. The applicant progressed with the construction and during that process some damage was caused to the structure of the informant's house and because of that water seepage started damaging the households of informant. This is precisely the dispute between the parties. It appears that, on 20.06.2023 there was some quarrel between the applicant and family members of the informant. Pertinently, nothing happened on that day or within a couple of days thereafter. The suicide is committed by the deceased on 28.06.2023. It is difficult to infer that there is direct nexus between the incident dated 20.06.2023 and commission of suicide by the deceased on 28.06.2023. Even from the entire material on record, it would be difficult to draw inference that the applicant intended to abate the commission of suicide. It is informed that the investigation in the matter is progressed. The statements of the neighbors and few of the witnesses are recorded. The applicant is behind the bar since 13.07.2023. Further detention of the applicant would not be necessary. In that view of the matter, case is made out for grant of bail, however subject to certain conditions. It is made clear that, observations made hereinabove are for *prima facie* consideration and only for disposal of this application. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Uday Vankatrao Kulkarni be released on bail in Crime No.301/2023 registered with MIDC CIDCO Police Station, Dist. Aurangabad for the offence punishable under Sections 306, 504 and 34 of the Indian Penal Code on executing

P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:

- a. The applicant shall not tamper with the prosecution evidence in any manner.
- b. The applicant shall attend the proceedings before the Sessions Court on each and every effective date.
- c. The applicant shall not contact with any of the witnesses.
- c. The applicant shall attend the concerned Police Station once in a week i.e. on every Monday between 10.00 am to 02.00 pm till filing of the charge-sheet.

(iii) The Criminal Application No.3429 of 2023 is disposed of.

(iv) Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE