

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

CRIMINAL APPEAL NO. 451 OF 2023

Ratnakar Laxman Bhor

...Appellant

Versus

State Of Maharashtra And Anr.

...Respondents

....

Mr. Ashok Mundargi, Sr. Advocate, Mr. Mohan Nisal i/by Mr. Raviraj Paramane, Advocate for the Appellant.

Mr. Nikhil Wadikar a/w Mr. Abhijeet Bachkar, Adv. Faiza Shaikh, Adv. Sejal Jain i/by Nandu Pawar, Advocate for Respondent No.2.

Mrs. Anamika Malhotra, APP for the Respondent – State.

PSI, M.D. Gosavi, Nashik Road Police Station.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th JULY, 2023.

P.C.:

1. This Appeal is preferred under Section 14-A of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 challenging Order dated 1st March, 2023 passed by the Sessions Court rejecting the Application for pre-arrest bail preferred by the Appellant apprehending arrest in C.R. No.51 of 2023 registered with Upanagar Police Station, Nashik City for offence under Section 306 and 506 of Indian Penal Code (for short 'IPC'). Subsequently, Section 3(1)(b) and Section 3(1)(r) were added.

2. The case of the prosecution is as follows :

Complainant's brothers Jagannath and Ravindranath were working with private moneylender Ratnakar Laxman Bhor (Appellant) since last one and half year. Their duty was to collect the interest amount from the borrowers. Since last one and half month Jagannath and Ravidranath were demanding money from elder brother. They informed the complainant that the amount lended by Mr. Bhor to the people with interest were not returned to them and Mr. Bhor is insisting that they should clear the said amount and causing mental harassment to them. In the previous month Ravindranath had mortgaged his motorcycle, ornaments of wife and vehicle of his brother and gave an amount to Mr. Bhor. On account of harassment by Ratnakar Bhor, Jagannath had left his house on 21st January, 2023 without informing his whereabouts to anyone. Missing complaint was lodged with Nashik Road Police Station. He returned home on 3rd February, 2023. He informed that the amount borrowed from Ratnakar Bhor with interest has been returned to him but he is demanding more money with higher rate of interest and causing mental torture to both of them. On 4th February, 2023, Ravidranath, their cousin Mukesh Veer and Jagannath approached Appellant. At that time he threatened Ravidranath and Jagannath that they may do whatever they want, they can die, but the amount of Rs.40,00,000/- should be returned

to him. The complainant and others requested for time for collecting the amount and making payment in installments. Ratnakar Bhor threatened that the amount should be returned within two days and told them to return the money. All of them returned home on 5th February, 2023, the complainant informed his brothers not to take tension and they should find out some solution. At about 3:00 p.m. Jagannath gave call to elder brother and informed him that he will not face any difficulties because of them and that he would not demand money in future from him. They have made arrangements. Subsequently, it was learnt that Jagannath and Ravidranath had consumed poisonous substance and they have been taken to hospital for treatment. On 5th February, 2023 at about 5:20 p.m. Ravindranath was declared and Jagannath was under treatment. First Information Report (for short 'FIR') was registered on 6th February, 2023.

3. The Appellant preferred an Application for pre-arrest bail Sessions Court. The said Application was rejected by Order dated 1st March, 2023.

4. Learned Senior Advocate Mr. Mundargi appearing for the Appellant submitted that the offence under Section 306 of iPC is not made out. No offence is made out under the provisions of

Atrocities Act. Bar under Section 18 of the Atrocities Act will not be applicable. The Appellant has not abetted the suicide of the deceased. The Appellant is carrying out the the business as estate agent and various other business. Asking the victims to return money due to him is not offence. There has to be proof of incitement to the commission of suicide. Custodial interrogation of the Appellant is not necessary. The Appellant is relying upon the affidavits of Appellant and other persons. Victim Jagannath was working in the office of the Appellant. His brother Ravindranath was not employee but he used to visit his office occasionally. The Appellant had given loan amount to various persons. The amount of Bhisu was handed over to Jagannath on 18th January, 2023. The Appellant's business associate had deposited the amount of Rs.3,00,000/- with Jagannath. On 17th January, 2023, Jagannath admitted that he has collected the amount from one Jalindar Mahonar Sanap, Subhash Gawande and Abhishek Jadhav. He received money from various persons. Ravindranath was defaulter of NDVS Bank, since last six years. The Appellant demanded money from Jagannath. He stop visiting the office of Appellant. Reliance is placed on the affidavit of Jalindar Sanap and others.

5. Learned APP submitted that the offence is of serious

nature. Victims are brothers. Both of them have consumed poison. One of them died. The other victim has survived. Statement of the survived victim has been recorded. In his statement, he has stated that he alongwith his brother were involved in collecting money. He had mortgage the ornaments of his wife. He had borrowed money and deposited the money. Even then, there was demand of money. Statement was recorded on 18th February, 2023. In their statement Jagannath Kamble has referred to abuses on caste. Investigation is in progress. Statements of other witnesses are recorded. Statements of witnesses were also recorded under Section 164 of Cr.P.C. Custodial interrogation of Appellant is necessary. Appellant is not entitled for relief of pre-arrest bail in view of Section 18 of Atrocities Act.

6. Learned Advocate for Respondent No.2 submitted that offence is of serious nature. Appellant is not entitled for anticipatory bail. There is bar under Section 18 of the Atrocities Act. There is sufficient evidence of harassment by the Appellant. Both the victims have attempted suicide. The victims were also abused on caste. There were harassment by the Appellant.

7. Perused investigation papers. Purported suicide note mentions that both the brothers are working at some place. They

were collecting money. Due to act of some persons, they were held responsible for payment. Jagannath had mortgaged vehicle and ornaments and paid amount of Rs.6,00,000/-. Both were under tension. The suicide note does not mention the name of any abettor. Statement of Jagannath was recorded on 18th February, 2023, which referred to the demand made by the Appellant towards recovery of money from the victims. Statement of Jagannath for the first also refers to abuses on his caste. The caste abuses are not corroborated by any independent person. *Prima facie* it is debatable whether offence under Section 306 of IPC is made out. The case relates to money transaction. Custodial interrogation is not necessary. Bar under Section 18 of the Atrocities Act will not be applicable.

ORDER

- i. Criminal Appeal No. 451 of 2023 is allowed;
- ii. Impugned order dated 1st March, 2023 passed by District Judge-5 and Additional Sessions Judge in Criminal Bail Application No.276 of 2023 is set aside.
- iii. In the event of arrest of the Appellant in connection with C.R. No. 51 of 2023 registered with Upnagar Police Station, Nashik the Appellant be released on bail on furnishing

P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

iv. The Appellant shall attend the Investigating Officer on 2nd, 3rd and 4th August, 2023 between 11:00 a.m. to 1:00 p.m. and thereafter as and when called for.

v. Appeal stands disposed off.

(PRAKASH D. NAIK, J.)