

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

ANTICIPATORY BAIL APPLICATION NO. 957 OF 2023

Shashikant Bhaskar Chaudhari ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Akshay Bankapure, for the Applicant.
Mrs. Ashvini Takalkar, APP for the State/Respondent.
API R. R. Pathan, Satpur Police Station, Nashik City,
present.

CORAM: N. J. JAMADAR, J.
DATED: 23th AUGUST, 2023

Order:-

1. Heard the learned Counsel for the parties.
2. This is an application for anticipatory bail in connection with in CR No.22 of 2023, registered with Satpur Police Station, District Nashik, for the offences punishable under Sections 306, 504, 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code") and Sections 39 and 45 of the Maharashtra Money-Lending (Regulation) Act, 2014.
3. The applicant claims to be dealing in the business of fruits. Dipak Shirude and his two sons Prasad and Rakesh (the deceased) were also dealing in fruit business. Pratibha is the wife of deceased Dipak.

4. On 29th January, 2023 Prathibha lodged report with the allegation that her husband had availed loan from HDFC Bank and other persons. Those creditors used to threaten and harass her husband and sons. Her husband and sons were scared of the creditors.

5. The first informant further alleged that on 29th January, 2023 she alongwith her younger son had been to a temple. When she returned at about 4.00 pm. door of the house was latched from inside. The deceased did not respond to the calls on the cell phone. Eventually, the doors were broke open. It was found that her husband and son had died by suicide by hanging.

6. The first informant realised that the deceased were harassed and humiliated by the creditors and unable to bear with the constant humiliation, harassment and torture at the hands of the creditors, the deceased died by suicide.

7. The first informant named 21 persons as the creditors in the FIR. The applicant is one of them.

8. The learned Counsel for the applicant submitted that the applicant is a licensed fruit supplier and has been dealing in the business since years. There are no allegations

in the FIR qua the applicant of either harassment or instigating the deceased. No case under Section 306 of the Penal Code is even remotely made out. In fact, few of the co-accused against whom there are more grave allegations, including accused No.1 Murlidhar Ramdas Dhamane, have been released on pre-arrest bail by the learned Sessions Judge.

9. It seems that noting the said submission that co-accused named in the suicide note and having more grave allegations have been directed to be released in the event of arrest, this Court by an order dated 17th April, 2023 granted interim protection to the applicant. It further appears that a statement was made on behalf of the prosecution that the prosecution was contemplating filing of an application for cancellation of pre-arrest bail granted to the co-accused. However, the learned APP submitted that till date no such application has been filed.

10. The learned APP tendered copy of the alleged suicide note in which the applicant is named as one of the persons from whom the deceased had availed loan, with the amount and the rate of interest thereon.

11. I have perused the alleged suicide note. It contains the names of 19 persons, the amount availed from each of them with the rate of interest at which the amount was raised, against each entry. It further reveals that the persons who abused and subjected the deceased to harassment have also been named therein with the nature of alleged acts on their part. The applicant is not one of those persons.

12. A perusal of the alleged suicide note also indicates that the deceased found themselves in financial constraints. Their business had become unviable as the creditors were insisting for payment of interest on the amounts advanced. The suicide note also adverts to the hopeless situation in which the deceased found themselves.

13. It is indeed unfortunate and distressing that three persons died by suicide on account of the financial mess in which they found themselves in. However, the aspect of *prima facie* complicity of the applicant is required to be considered objectively.

14. Apart from naming the applicant as one of the creditors, there is, *prima faice*, no material to indicate that the applicant had abetted the suicide by direct or indirect acts of incitement to commit suicide. It is well neigh settled

that on the basis of mere allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which compelled or coerced the person to commit suicide, an offence punishable under Section 306 of the Penal Code cannot be sustained. There ought to be *prima facie* material to show that the accused played an active role either by an act of instigation or intentional aid to bring about the consequence of suicide.

15. The decisions of the Supreme Court in the case of *Ude Singh and others vs. State of Haryana*¹ and *Arnab Manoranjan Goswami vs. State of Maharashtra and ors.*² after extensively referring to the previous pronouncements, succinctly postulate the ingredients which are required to be satisfied for an offence punishable under Section 306 of the Penal Code.

16. On the aforesaid touchstone, reverting to the facts of the case there is, *prima facie*, no material to show that the applicant either instigated or intentionally aided or otherwise committed any positive act to compel or coerce the deceased to commit suicide. In the circumstances, the custodial interrogation of the applicant does not seem to be warranted.

1(2019) 17 Supreme Court Cases 301.

2(2021) 2 Supreme Court Cases 4127.

17. Thus, a *prima facie* case for pre-arrest bail is made out. The applicant seems to have permanent place of abode and roots in the society and the possibility of fleeing away from justice seems to be remote. Hence, I am inclined to exercise the discretion in favour of the applicant.

18. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.22 of 2023, registered with Satpur Police Station, District Nashik, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant or any other person acquainted with the facts of the case.
- (iii) The applicant shall cooperate with the investigation and report to the Investigating Officer as and when directed.
- (iv) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]