

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

ANTICIPATORY BAIL APPLICATION NO.2746 OF 2022

Sambhaji Jagannath Kanse

Applicant

Versus

The State of Maharashtra

Respondent

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Mr. Vikas Shivarkar, Advocate for the Applicant.

Ms. P. N. Dabholkar, APP for the Respondent – State.

Mr. Sharad Mali, API Vishrantwadi Police Station, Pune City-Present.

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CORAM : PRAKASH D. NAIK, J.

RESERVED ON : 4th OCTOBER, 2022

PRONOUNCED ON : 10th JANUARY, 2023

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PC :

1. The applicant is apprehending arrest in connection with C.R. No.244 of 2022 registered with Vishrantwadi Police Station, Pune for offences punishable under Sections 420 and 306 read with 34 of the Indian Penal Code.

2. The First Information Report was registered on 13th September 2022 at the instance of Smt. Pramila Mahadev Kondre. It is alleged that the deceased (husband of first informant) had informed her that his grand-father viz. Mr. Anant Shripad Kodre was residing at Pune for several years. He owned 0.42 Ares of land at Survey No.51/5 in Mundhava. The land admeasuring 0.039 Ares was received from late

Mr. Jayprakash Kodre. Mr. Anant Shripati Kodre and his two wives viz. Mrs. Laxmibai Kodre and Mrs. Rukmanibai Kodre were legal heirs to remaining 0.39 ares. Mrs. Laxmibai Kodre was having two issues viz. Madhukar Kodre and Suman Kodre. Mrs. Rukmanibai Kodre was having six issues viz. Vasant Kodre, Babasaheb Kodre, Dattateya Kodre, Digambar Kodre, Hirabai Kodre and Tarabai Kodre. The complainant was informed by her husband that since his parents had expired, land admeasuring 0.39 Ares was separated and it was standing in the name of her husband, brother Sandip Kodre and sister Ujwala and they were recorded as legal heirs in respect to the said land. The complainant was also informed that the accused No.1 Vasant Kodre had given responsibility of the work relating to the said plot to him. Mr. Vasant Kodre was aged person and the work relating to the plot was performed by the deceased by spending money. Mr. Vasant Kodre had informed complainant's husband that the said plot was to be sold. The deceased had brought several persons for purchasing the said plot. The transaction relating to the said plot was executed with friend of Mr. Vasant Kodre i.e. Mr. Sambhaji Jagannath Kanase (Applicant) for consideration of Rs.1,31,25,000/- under the mediation of accused No.1. Visar Pavati and Sale Deed was executed and cheques worth Rs.99,00,000/- were given to the deceased. The complainant's husband (deceased) was residing at Vishrantwadi for

completion of transaction of plot. In the month of February 2022, it was noticed that, he was under tension. He informed the complainant that the cheques worth Rs.99,00,000/- given by the accused were dishonoured. Accused No.1 Mr.Vasant Kodre and Mr. Sambhaji Jagannath Kanase (Applicant) had cheated him. He had no other option except to die. He had borrowed money from the people of village. The complainant's husband then returned to Pune. The amount was not returned to complainant's husband. The land was measured. He tried to contact the accused on phone. There was no response. The deceased got frustrated with the conduct of the accused. Mr. Vasant Kodre lodged false complaint against the deceased with Hadapsar Police Station on 11th August 2022. The complainant came to know that her husband had committed suicide by strangulation in his room. He was taken to Sassoon Hospital, Pune. The husband of complainant had written suicide note. It was recovered by police. FIR was registered.

3. The applicant had preferred an application for anticipatory bail before the Court of Sessions which was rejected vide order dated 27th September 2022.

4. Learned Advocate for the applicant submitted that the applicant cannot be held responsible for an offence punishable under Section 306 of IPC. The allegations in the FIR are afterthought. Co-

accused Mr. Vasant Kodre has been granted anticipatory bail by the Sessions Court vide order dated 27th September 2022. Sale Deed was executed with the applicant by the owners of the plot of land. The applicant had parted huge amount of Rs. 58,21,004/- to the deceased and other persons. Notice was given about the transactions, prior to registration of Sale Deed. Complaint was filed by accused No.1 and others against the deceased. Suit is filed by accused No.1 and others against the applicant and deceased relating to the same property. The deceased was not frustrated on account of the act of the applicant and no offence under Section 306 is made out against the applicant.

5. Learned APP submitted that the suicide note was recovered during the investigation. The suicide note indicts the applicant. The cheques issued by applicant were dishonoured. Victim was harassed. The accused caused harassment to the deceased. There was no reason for the applicant not to clear cheques. The cheques were dishonoured on account of insufficient funds in account of applicant. Custodial interrogation of the applicant is necessary.

6. I have perused the FIR, suicide note and investigation papers. The statements of complainant and other witnesses attribute specific overt act of harassment to the deceased by applicant. Sale Deed was executed by applicant and others. The cheques issued by applicant

towards the consideration were dishonoured. The applicant has relied upon certain bank entries to show that part payment was credited into the account of deceased and others. However, the cheques with substantial amount were dishonoured. The explanation of applicant that there were disputes between parties and he stopped payment is not plausible. There is no cogent reason for dishonoured of cheques. The statement of witnesses indicate that the deceased was acting on behalf of the accused No.1 and others for completing the transaction of sale. The accused No.1 was aged person. The accused No.2 was associated with accused No.1. Complaint was filed by accused No.1 against the deceased which was subsequently withdrawn. The deceased had spent money for completing the transaction. He was visiting various offices to complete the transaction. Since Sale Deed was executed, there was no reason for dishonour of cheques. The suicide note written by deceased refers to the frustration of deceased on account of conduct of applicant and other accused. The deceased had committed suicide in the room where he was residing. Prior to act of suicide, he had written detailed suicide note attributing overt act to the applicant and holding him responsible for suicide. Applicant is not entitled for relief on the ground that application preferred by co-accused is allowed by Sessions Court.

7. Considering the circumstances, no case is made out for granting anticipatory bail to the applicant. Hence, the application deserves to be rejected.

ORDER

(i) Anticipatory Bail Application No.2746 of 2022 stands rejected.

(PRAKASH D. NAIK, J.)