

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

ANTICIPATORY BAIL APPLICATION NO. 2607 OF 2023

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH
SUBHASH
KULKARNI
Date: 2023.09.14
19:02:20 +0530

Sadashiv Annaso Mahajan ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Aniket Nikam, i/b Amit Ichan, for the Applicant.
Mr. S. V. Gavand, APP for the State/Respondent.
PSI Rahul Waghmare, Murgud Police Station, Kolhapur,
present.

CORAM: N. J. JAMADAR, J.
DATED: 13th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.212 of 2023 registered with Murgud Police Station, Kolhapur, for the offences punishable under Sections 306 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3. Rohit was the son of the first informant. He was working on the Tempo of the applicant as driver. Rohit had allegedly acted as a go between in securing a loan of Rs.70,000/- on interest at the rate of 10% to the applicant

from Pravin Bharmal. Applicant committed default in repayment.

4. Pravin Bharmal allegedly harassed Rohit on the said count. On 25th July, 2023, Pravin had come to the house of Rohit and demanded repayment of the amount within two days, lest he would take away the cattle. Unable to bear the harassment, on 18th July, 2023, Rohit died by suicide. On 16th August, 2023, first informant lodged the report.

5. The learned Counsel for the applicant submitted no abettment can be attributed to the applicant. The allegations in the FIR, even after taken at par, do make out a *prima facie* case for the offence punishable under Section 306 of the Penal Code qua the applicant.

6. The learned APP fairly submitted that initially the brother of the deceased had lodged an accidental death report, wherein it was stated that the deceased was under a spell of depression on account of the financial mess, he found himself in. However, in the mobile phone handset of the deceased, the name of the applicant finds mention as one of the persons alongwith Pravin Bharmal. The applicant allegedly owed sum of Rs.4,60,000/-.

7. I have carefully perused the allegations in the FIR. *Prima facie*, the allegations of harassment are attributed to Pravin Bharmal. The applicant had allegedly committed default in repayment of the loan, which he had availed from Pravin Bharmal and since the said loan was advanced due to intervention by the deceased, Pravin Bharmal was harassing him. It does not seem any direct or proximate act is attributable to the applicant, which left the deceased with no option but to commit suicide. Neither direct instigation nor intentional aid can be attributed to the applicant. In substance, there is no *prima facie* material to bring the acts or conduct of the applicant within the ambit of Section 107 of the Penal Code.

8. The applicant appears to have roots in society. The possibility of fleeing away from justice seems to be remote.

9. In the aforesaid view of the matter, I am persuaded to exercise the discretion in favour of the applicant.

10. Hence, the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.212 of 2023 registered with Murgud Police Station, Kolhapur,, 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 cooperate with the investigation and report to the Investigating Officer on every alternate Saturday in between 10.00 am. to 1.00 pm. for a period of one month.
- (iii) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant and any person acquainted with the facts of the case.
- (iv) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (v) 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.]