

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

ANTICIPATORY BAIL APPLICATION NO. 3282 OF 2023

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
KULKARNI
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Subhash Ganpati Holmukhe ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Machindra Deshmukh, for the Applicant.
Smt. Ashwini Takalkar, APP for the State/Respondent.
HC S. I. Chavan, Ashta Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 28th NOVEMBER, 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.191 of 2023, registered with Aashta Police Station, Sangli, for the offences punishable under Sections 120B, 306, 406, 420, 465, 468, 471 and 506 of Indian Penal Code, 1860 ("the Penal Code").
3. The father of the first informant (the deceased) had started Military Training Academy at Bahadurwadi under the name and style of Aadarsh Career Academy. The applicant had allegedly introduced accused No.1, Tanaji Gujare, as his son-in-law. Accused No.1 Tanaji had induced the deceased to

part with a huge amount of Rs.1,87,00,000/- by making a false representation that he would secure employment for the trainees enrolled in the academy of the deceased in the Merchant Navy and Military Engineering Services. The first informant alleged during the month of January 2020 to December 2021 a sum of Rs.1,87,00,000/- was paid to the applicant and the co-accused. In the process, to instill confidence, the applicant and the co-accused had prepared false documents. When the fraud was unearthed, the applicant and the co-accused assured to return the amount. Accused No.1 Tanaji Gujare returned a small part of the amount. When the deceased expressed his intent to take legal action against the applicant and co-accused, they threatened to falsely implicate the deceased and also kill the first informant. Unable to bear the harassment and illtreatment meted to the deceased, the latter consumed poison on 15th July, 2023 and passed away. Hence, the report.

4. The learned Counsel for the applicant submitted that the applicant was not the person, who had made the inducement. Nor any amount was paid to the applicant. Except the first tranche of the alleged payment of

Rs.52,50,000/- in cash no other amount has allegedly been paid to the applicant. The role attributed to the applicant is that of introducing Tanaji Gujare. The latter had repaid a part of the amount. In the circumstances, the role of abetment to commit suicide by the deceased can not be attributed to the applicant, submitted the learned Counsel for the applicant.

5. The learned APP, on the other hand, submitted that the statement of account of the first informant reveals that a sum of Rs.7,64,500/- has been credited to the account of the applicant. Therefore, the applicant is equally complicit, submitted the learned APP.

6. I have perused the allegations in the FIR. *Prima facie*, it appears that the alleged false representation and inducement were made by accused No.1 Tanaji Gujare, who was arrested and has since been released on bail. Except the first tranche of payment which was allegedly made to the co-accused Tanaji Gujare and the applicant as well in cash, no other amount is alleged to have been paid to the applicant. It is pertinent to note that co-accused Tanaji Gujare had repaid a part of the amount, parted with by the deceased. In the circumstances, whether the element of instigation or

intentional aid to commit suicide is made out is a matter for adjudication. In this view of the matter, even if, the case of the prosecution is taken at par *prima faice* the question as to whether there was a direct or proximate act on the part of the applicant, which left the deceased with no option but to commit suicide, warrants adjudication at the trial. The aspect of delay in lodging FIR also deserves consideration. The applicant appears to have roots in the society. The possibility of fleeing away from justice and tampering with evidence seems to be remote.

7. I am, therefore, inclined to exercise the discretion in favour of the applicant while directing him to join in the investigation.

8. Hence the following order:

: O R D E R :

(i) In the event of arrest of the applicant in CR No.191 of 2023, registered with Aashta Police Station, Sangli, 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 attend Aashta Police Station, Sangli on 4th, 5th and 6th December, 2023 in between 10.00 am. to 1.00 pm.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iv) The applicant shall furnish his specimen handwriting and signature if directed by the Investigating Officer.
- (v) The applicant shall also furnish the extracts of all his bank accounts to the Investigating Officer.
- (vi) 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.]