

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

ANTICIPATORY BAIL APPLICATION NO. 3617 OF 2023

SANTOSH
SUBHASH
KULKARNI

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1. Ganesh Pandurang Walunj	
2. Aakash @ Nanya Baban Barane	...Applicants
Versus	
State of Maharashtra	...Respondent

Ms. Pooja Agarwal, a/w Rajendra Saonavale and Vaibhav Kulkarni, through VC, for the Applicants.
Smt. Ashwini Takalkar, APP for the State/Respondent.
PSI B. A. Ware, Talegaon Dabhade Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 22nd DECEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.535 of 2023, registered with Talegaon Police Station, Pimpri-Chinchwad, for an offence punishable under Section 306 of Indian Penal Code, 1860 ("the Penal Code").
3. At the outset, the learned Counsel for the applicants, submits that this Court has granted pre-arrest bail to co-accused, who is similarly circumstanced. The learned Counsel invited the attention of the Court to the order dated

12th December, 2023. While granting pre-arrest bail to Pratik Jadhav, co-accused, this Court has observed, *inter alia*, as under:

“3. Mr Debu Khan, deceased, was the brother of the first informant. The deceased and his mother had advanced a sum of Rs.1 Lakh to the applicant for cloth business. They had also advanced money to other persons. The applicant and those borrowers allegedly did not repay the amount despite repeated demands. The cheques drawn by the two of the borrowers were dishonoured on presentment. The deceased was thus, under stress. The first informant alleges that on account of the treatment at the hands of the applicant and the co-accused, the deceased died by suicide.

4. The learned Counsel for the Applicant submitted that the applicant had, in fact, borrowed money from the mother of the deceased. She has been dealing in the business of illegal money lending. The allegations in the FIR, even if taken at par, according to the learned Counsel for the Applicant, do not make out an offence under Section 306 of IPC. Learned Counsel further submitted that the applicant was initially granted interim bail and the applicant had appeared before the Investigating Officer on more than 10 occasions. Thus, the custodial interrogation of the applicant is not warranted.

5. Prima facie, the allegations in the FIR do not fall within the ambit of abetment under Section 107 of the IPC. Failure or even refusal to repay the amount which was allegedly borrowed from the deceased, does not prima facie amount to instigation or intentional aid to commit suicide.”

4. The role of the applicants appears to be almost identical. On the parity of reasoning, the applicants deserve the same dispensation.

5. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicants in CR No.535 of 2023, registered with Talegaon Police Station, Pimpri-Chinchwad, the applicants 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, each.
- (ii) The applicants shall cooperate with the investigation and appear before the Investigating Officer as and when directed.
- (iii) The applicants 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 applicants 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.]