



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1935 OF 2023

1. Ajit Ramesh Dangat
2. Kishor Tukaram Shinde ... Applicants

VERSUS

The State Of Maharashtra ... Respondent

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Ms. Suwarna Zaware, Advocate h/f Mr. S.B. Dushing, Advocate
for the Applicants

Mr. D.B. Bhange, APP for Respondents – State

Mr. Mr. Narendra B. Patekar, Advocate for informant.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 27th FEBRUARY, 2024

ORDER :

1. Applicants apprehend arrest in connection with Crime No.1155 of 2023, registered with Rahuri Police Station, District Ahmednagar for offence punishable under sections 306, 506 read with 34 of the Indian Penal Code.

2. FIR is lodged by Pradip Bhausaheb Kamble alleging that his brother Pramod @ Sandip had purchased a land by borrowing money from people. To return the borrowed money, prior to 5 years, he obtained Rs.6,00,000/- from applicants at interest of 10% p.m. Sandip had repaid the entire loan along with interest to applicants. However, still they were demanding more interest from him. They were saying that either you pay

the more interest or transfer the land purchased by him in their name. Both applicants used to threaten Pramod @ Sandip and his family members and used to demand remaining amount. On 28.09.2023, at about 9.30 a.m. when informant, his mother were at home, both applicants came there and asked whereabouts of Sandip. They told them that he has gone to deliver milk. Both of them told that they should return the money taken on interest. Thereafter, Pramod @ Sandip did not return home. He was not answering the calls. On the same day, at about 3.30 noon, applicant Ajit Ramesh Dangat and Bhimraj Ambadas Japkar searched Pramod @ Sandip at Wambhori and Chedgaon and came to their house. While leaving, applicant Ajit Dangat told that Sandip will not be coming home for three days and left. Thereafter, informant and his relatives tried to search Sandip in nearby area, but he could not be traced. Therefore, on 30.09.2023, he lodged missing report of Sandip at Wambhori Police Station. Thereafter, on 01.10.2023, informant received a call from his cousin Ramesh Tambe stating that Sandip had sent him message that, "should I take poison or hang myself". Ramesh replied, "not to do anything and stay properly wherever he was". Thereafter, informant and Ramesh Tambe proceeded

towards Pahi road, at that time, they saw a man hanging on a tamarind tree. He was Sandip.

3. Heard the learned advocate for applicants, learned APP for respondent – State and learned advocate for informant. Perused the investigation papers.

4. Applicants claim that they are innocent and they have not committed any offence. They are falsely implicated in the present crime only so as to avoid the repayment of hand loan obtained by deceased.

5. Learned advocate for informant, on the other hand, submits that there is a suicide note in which applicants are named, and therefore, there is sufficient material on record to show that applicants have abated the suicide of victim.

6 Learned APP has opposed the bail application by placing on record the investigation papers.

7. Record indicates that on 30.09.2023, informant lodged a missing report with Rahuri Police Station stating that his brother is missing since 28.09.2023 and in spite of search, he could not be traced. The same is registered at missing register no.169/2023.

Dead body of Sandip was found on 01.10.2023 and alleged suicide note implicating applicants is seized from the spot of incident, hence, A.D. No.180/2023 is registered under section 174 of the Code of Criminal Procedure. During the course of enquiry of the said A.D., on 03.10.2023, informant produced his cellphone on which he had received message from Sandip on 01.10.2023 that, "should he consume poison or hang himself". On 03.10.2023, an announcement was made at the beat of drums in informant's village, inviting any doubts or complaint about the suicide of deceased. Thereafter, FIR is lodged on 06.10.2023 making the aforesaid allegations.

8. In the light of these facts, *prima facie*, it appears that after thought belated FIR is lodged. The allegations made in the FIR are not made at the time of lodging missing report or during the course of enquiry of accidental death. Fact remains that in the present case *prima facie* ingredients of section 107 of the Indian Penal Code are not made out to attract section 306 of the Indian Penal Code. Possibility cannot be ruled out that applicants are implicated in the present crime to avoid repayment of hand loan.

9. Nothing is to be recovered from applicants. The investigation appears to be almost complete. Hence, pre-trial custodial detention of applicants is not necessary in the facts of the present case.

10. Application is therefore allowed by confirming interim protection granted to applicants by order dated 16.11.2023.

11. Till filing of the charge sheet, the applicants shall attend the concerned police station as and when called by the Investigating Officer.

12. Applicants shall not tamper prosecution evidence and/or shall not try to influence and contact the prosecution witnesses.

[NITIN B. SURYAWANSHI]
JUDGE