



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.55 OF 2024**

Bhimsen Bajirao Gokule ... Applicant
versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.228 OF 2024
IN
BAIL APPLICATION NO.55 OF 2024

Rinaldo Rolland Rodrigues ... Intervener
and
Bhimsen Bajirao Gokule ... Applicant
versus
The State of Maharashtra ... Respondent

WITH
BAIL APPLICATION NO.314 OF 2024

Camello Peter Gonsalves ... Applicant
versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.769 OF 2024
IN
BAIL APPLICATION NO.314 OF 2024

Rinaldo Rolland Rodrigues ... Intervener
and
Camello Peter Gonsalves ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Shailesh Kharat for Applicant in BA 55 of 2024.
Mr. S.R.Agarkar, APP for State.
Mr. B.L.Jagtap with Mr. Ashish Jagtap, Ms. Anuksha Jagtap, for Applicant in BA 314 of 2024.
Mr. Tanveer Khan, APP for State in BA 314 of 2024.
Mr. Elvis Lloyd Netto, for Intervener.

PSI Patole, Sahar Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 28 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicants who are arraigned in C.R.No.423 of 2023 registered with Sahar Police Station for the offences punishable under Sections 306, 420 read with Section 34 of the Indian Penal Code, have preferred these applications to enlarge them on bail.
3. Bhimsen Bajirao Gokule – applicant in BA 55 of 2024 was inducted into the premises of Ralf (deceased) in the month of January 2021. In accordance with the terms of the agreement, the applicant – Bhimsen was supposed to vacate the premises in the month of November 2021. It is alleged, the applicant did not vacate the premises and questioned the proprietary title of the deceased over the said premises. The applicant and the co-accused had allegedly set up a false and forged leave and licence agreement, under which purportedly huge deposit was accepted by the deceased. The said heavy deposit agreement was executed between the applicant and Alex D’Souza. The deceased had lodged a complaint before the learned Magistrate against the applicant and co-accused who had allegedly deceived him. Simultaneously, civil proceeding was also instituted by the deceased. The applicant, in turn, had also lodged a private complaint against the deceased and other persons who were allegedly

instrumental in deceiving him by accepting the heavy deposit and thereafter denying the transaction.

4. In the meanwhile, on 9 September 2023, Ralf died by suicide. In the suicide note, the deceased stated that he had been cheated by Camello Peter Gonsalves – the applicant in BA 314 of 2024, Imitiaz Shaikh, Surendra Chouhan, Nilesh Anil Nikalje, Alex Valentine Anthony D’Souza, Bhimsen Bajirao Gokule, Jothi Bhimsen Gokule. He was tired of the harassment, torture and stress and could not take the mental torture any more and, therefore, he committed suicide. On the basis of the said suicide note and the statements of the witnesses recorded during the course of investigation, the applicant Bhimsen came to be arrested.

5. Learned Counsel for the Applicant in BA 55 of 2024 submitted that there was a dispute between the parties over the nature of the transaction, pursuant to which the applicant was inducted into the subject premises. The applicant had parted with huge amount. The deceased and Alex, who had executed the agreement, later on denied the character of the transaction between the parties. Even the cheques drawn by Alex to repay the amount which the applicant had paid, were dishonoured. Therefore, the applicant was constrained to lodge a private complaint. At any rate, there was no instigation or intentional aid for the alleged suicide, submitted Mr. Kharat.

6. Mr. Jagtap, learned Counsel for Camello Gonsalves - the Applicant in

BA No.314 of 2024 submitted that the applicant was not named in either the complaint lodged by the deceased or the complaint lodged by Bhimsen Gokule. The name of the applicant was mentioned only in the suicide note. Mr. Jagtap invited the attention of the Court to the statement of Sophia, the wife of the deceased, wherein she stated that the deceased had attempted to commit suicide in the past.

7. Learned APP fairly submitted that the investigation is complete and the chargesheet has been lodged and thus further detention of the applicants may not be warranted.

8. Learned Counsel for the first informant – Intervener, however, stoutly resisted the prayer for bail. Taking the court through the genesis of the alleged offences which, according to him, is in the setting up of a false claim based on forged documents, learned Counsel made an endeavour to urge that the deceased was subjected to continuous harassment by the applicants. A grievance was made that the investigation has not been carried out in an effective and diligent manner. There is electronic evidence which indicates that the deceased was subjected to harassment by the applicant Bhimsen and yet the same has not been compiled by the IO. Thus, the first informant has filed a protest application before the trial Court.

9. I have carefully perused the material on record. I have given anxious consideration to the submissions canvassed across the bar. Evidently, the genesis of the dispute is in the character in which Bhimsen was inducted into the premises of the

deceased. Was it a simplicitor leave and licence agreement or the agreement was accompanied with a clause to continue to occupy the subject premises by Bhimsen till the deposit which Bhimsen allegedly paid was not refunded ? It appears that two distinct documents have been set up. The question as to which of the documents is genuine is essentially a matter for adjudication at the trial.

10. So far as the offence punishable under Section 306 of the Penal Code, it is trite that there should be direct and proximate act on the part of the accused which left the deceased with no option but to commit suicide. In the case at hand, the allegations against the applicant, even if taken at par, do not prima facie constitute instigation or intentional aid to commit suicide. It appears that on account of the dispute between the parties and the stand taken by the applicants as well as the role played by the co-accused who were allegedly estate agents, the deceased found himself in a distressed situation. At this stage, the statement of Sophia that, in the past the deceased had attempted to commit suicide, deserves due consideration. In any event, prima facie, whether a case of abetment to commit suicide is made out, appears debatable. The investigation seems to be complete and the chargesheet has been lodged. The applicants are in custody since 10 September 2023 and 6 October 2023 respectively. Further detention of the applicants does not seem warranted. The applicants appear to have roots in society. Possibility of fleeing away from justice and tampering with evidence seems remote.

11. I am, therefore, inclined to exercise discretion in favour of the applicants.

12. Hence, the following order :

ORDER

(i) The Applications stand allowed.

(ii) The Applicants – Bhimsen Bajirao Gokule and Camello Peter Gonsalves be released on bail in C.R.No.423 of 2023 registered with Sahar Police Station on furnishing a PR bond in the sum of Rs.30,000/- each and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicants are permitted to furnish cash security of Rs.30,000/- in lieu of surety for four weeks.

(iv) The applicants shall mark their presence before Sahar Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(v) The applicants shall not contact the first informant, any of the relatives of the first informant or the deceased.

(vi) The applicants shall not tamper with the prosecution evidence. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(vii) On being released on bail, the applicants shall furnish their contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(viii) The applicants shall regularly attend the proceedings before the jurisdictional Court.

(ix) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

(x) The Interim Applications also stand disposed.

(N.J.JAMADAR, J.)