

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

ANTICIPATORY BAIL APPLICATION NO. 917 OF 2024

Vishnu Chintu Gaikwad	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Tushar Sonawane a/w Pooja Satpute, for the applicant.
Mr. Nitin B. Patil , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 5th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R No.178 of 2024, registered at Indapur Police Station, Pune, on 17/02/2024, under Sections 306, 506 r/w 34 of the Indian Penal Code.

2. Heard Mr. Sonawane, learned counsel for the Applicant and Mr. Patil, learned APP for the Respondent-State.

3. The FIR is lodged by one Datta Shinde, in respect of the incident in which his brother Shahaji had committed suicide by

hanging himself from a tree on 16/02/2024, at about 5.00 p.m. The informant went there. He brought down the dead body. There was a suicide note in the right pant pocket of the deceased. In that suicide note, the deceased had named the present Applicant. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that, in the year 2013, there was an agreement executed between the Applicant and the deceased. However, the deceased subsequently cancelled that agreement. Purchase price of the land was fixed at Rs. 10 lakhs. The deceased had given 2 cheques of Rs. 4 lakhs and 5 lakhs respectively for refund of the money taken by him. Those cheques were dishonoured and the Applicant had filed proceedings under section 138 of the Negotiable Instrument Act, before the Competent Court in the year 2015 itself. The trial proceeded, the evidence was led and even the statement under section 313 of Cr.P.C. was recorded by the learned Magistrate and the matter was posted for Judgment. At that stage, the deceased committed suicide. Learned counsel therefore submitted that by no stretch of

imagination, it can be said the offence under section 306 of the I.P.C. is made out against the present Applicant and hence, the Applicant deserves protection under section 438 of Cr.P.C.

5. Learned APP opposed these submissions. He produced the investigation papers which contain the suicide note and the statement of the person who was concerned with the land transaction. He submitted that the Applicant had misused the cheques given by the deceased for causing harassment and therefore the deceased had committed suicide. Hence the offence under section 306 of the I.P.C. is made out.

6. I have considered these submissions and perused the statement of Mahadev Kalange, who was concerned with the land dealing. It shows that there was some transactions in the year 2013 in respect of the land. The deceased had acted as an agent. The statement mentioned that the transaction was completed in the year 2015 itself. Therefore, to that extent it was an old transaction. The Applicant had filed proceedings under section

138 of N.I. Act in the year 2015 which was pending. Those proceedings had reached the stage of final Judgment. At that stage, the deceased had committed suicide.

7. There is a reference in the suicide note about the said land transaction. According to the deceased, he had paid the money taken from the Applicant to Mahadev Kalange and the deceased had not acted dishonestly in the transaction. He had acted as a middle man. To close the transaction he had given his cheques and a stamp paper. According to him, the Applicant had misused the documents and lodged false case against him which caused harassment to him. It is also mentioned in the suicide note that the Applicant was threatening him. He has mentioned that he was sure about his conviction in that case and therefore he was committing suicide. The deceased has clearly mentioned that he was apprehending that he was likely to be convicted in that case and therefore, he had committed suicide.

8. The Applicant, on his part, had taken recourse to filing the proceedings under sec. 138 of N.I. Act, in accordance with law.

The evidence was led, the statement of the deceased was recorded under section 313 of Cr.P.C. and the matter was ripe for Judgment. Therefore, it cannot be said that filing such case would amount to harassment to such a degree that it led the deceased to commit suicide. Filing of the case and pursuing it, in accordance with the law, will not amount to instigation or abetment as required under section 107 r/w Sec. 307 of the I.P.C. Though the incident is quite unfortunate and the deceased has lost his life, in the background of this discussion, it is difficult to observe that the offence under section 306 of the I.P.C. is made out against the present Applicant. Therefore, the Applicant deserves protection under section 438 of Cr. P.C. It is made clear that all these observations are made only for the purpose of passing this order. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R No.178 of 2024, registered at Indapur Police Station, Pune, the Applicant is directed to be released on bail on his executing PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand

Only) with one or two sureties in the like amount.

- (ii) The Applicant shall co-operate with the investigation.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)