

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1246 OF 2024

YUGANDHARA
SHARAD
PATIL

Sohail Shaukat Pathan

.... Applicant

Versus

The State of Maharashtra

.... Respondent

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Mr. Ebaad Shaikh , for the applicant.

Ms. Pallavi N. Dabholkar , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 6th MAY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R No. 38 of 2024, registered at Kinhavali Police Station, Thane, on 20/02/2024, under Section 306 of the Indian Penal Code.

2. Heard Mr. Ebaad Shaikh, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the Respondent-State.

3. The FIR is lodged by one Yash Choudhari in respect of the suicide committed by his father Sanjay Chaudhari. The FIR mentions that Sanjay had purchased a poclain machine on 02/06/2022 for Rs. 54,55,450/-. It was given to the Applicant on rent. Sanjay had taken loan from the Kotak Mahindra Bank. It is mentioned in the FIR that Sanjay used to tell his family members that the Applicant was not making payment of the rent. The EMI was getting accumulated and the Bank was after Sanjay for repayment of that loan and therefore he was left with no option but to commit suicide. Sanjay committed suicide by consuming poison. He was found by his relative in his car. He was taken to the hospital but he was declared dead. He had written a suicide note which was found in his shirt pocket. The FIR mentions that Sanjay had taken loan for that machine for Rs. 34,12,525/- out of which, Sanjay had paid Rs. 8,75,137/- and the balance amount was Rs. 25,37,388.96. The FIR mentions that the Applicant had paid Rs. 40,50,000/- in the bank account of the deceased Sanjay Chaudhari. The Applicant had not paid the balance amount of rent. He was not returning that machine. On this basis, the FIR is

lodged.

4. At the outset, learned APP as well as learned counsel for the Applicant submitted that, as of today, the Applicant is in Dubai. Learned counsel for the Applicant submitted that the Applicant is willing to come back to India and is willing to cooperate with the investigation. He submitted that the Applicant is willing to deposit his passport with the investigating officer. He submitted that this will show his bonafide. As far as merit of the matter is concerned, learned counsel for the Applicant submitted that the Applicant had paid substantial amount of more than Rs. 40,50,000/-, which was more than the amount of loan, which was taken by Sanjay. The suicide note itself does not directly blame the Applicant for commission of suicide. In any case, even if there was some dispute about the exact amount which was to be paid, it will not amount to abetment as per section 107 r/w Section 306 of the Indian Penal Code.

5. Learned APP opposed these submissions and produced the investigation papers before the Court. She submitted that

because of non payment of money by the Applicant, the deceased was under pressure and he committed suicide.

6. I have considered these submissions. There are statements of the informant's other family members which are similar to the FIR. Some of the statements are recorded under section 164 of Cr.P.C. The important question is the contents of the suicide note, in which it is mentioned that the Applicant be asked to pay the installments. In any case, as submitted by learned counsel for the Applicant, he had deposited Rs. 40,50,000/- in the account of the deceased. This fact is mentioned in the FIR itself. Thus, it can be said that a substantial amount was actually paid by the Applicant. About the balance amount of the loan, the bank could have taken legal steps. Therefore, at this stage, I find substance in the submissions of learned counsel for the Applicant that the allegations against the Applicant will not amount to abetment as defined under section 107 r/w Section 306 of the I.P.C. In these circumstances, it is sufficient if the Applicant cooperates with the investigation. Learned counsel for the

Applicant has made a statement that the Applicant is willing to come back to India and deposit his passport with the investigating agency. This submission also indicates bonafide intention of the Applicant.

7. Considering above circumstances and submissions, the Applicant can be protected under section 438 of Cr.P.C. Hence the following order.

ORDER

- (i) In the event of his arrest in connection with C.R No. 38 of 2024, registered at Kinhavali Police Station, Thane, 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 deposit his passport with the investigating officer within a period of 10 days from his returning to India.
- (iii) The Applicant shall not leave India without prior permission of the trial Court.

- (iv) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (v) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)