

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

ANTICIPATORY BAIL APPLICATION NO. 3199 OF 2023

Rasikbhai Mohanbhai Kevadiya ...Applicant
Versus

1. State of Maharashtra
2. Mansi vipul Patel ...Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO. 106 OF 2024**

1. Nilesh Haribhai Patel
2. Sandeep Haribhai Patel
3. Rohitbhai Manjibhai Diyora ...Applicants
Versus
State of Maharashtra ...Respondent

Mr. Shubham More, a/w Akshay Naik, i/b Sagar Shetty, for
the Applicant in both ABAs.
Mr. H. G. Dedhia, APP for the State/Respondent No.1.
Mr. Shailesh Kharat, for Respondent No.2.

**CORAM: N. J. JAMADAR, J.
DATED: 24th SEPTEMBER, 2024**

ORDER:-

1. Heard the learned Counsel for the applicants, the
learned APP for the State/respondent No.1 and the learned
Counsel for respondent No.2.

2. These applications are for pre-arrest bail in connection
with CR No.327 of 2023, registered with Meghwadi Police
Station, Mumbai, for an offence punishable under Section

306 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. The applicants are the partners of M/s. Shriram Impex, Mini Bazar, Varachha, Surat. M/s. Shriram Impex is engaged in the business of diamonds. Vipul Patel (the deceased), the husband of the first informant, was working as an agent with M/s. Shriram Impex, since the year 2021. The deceased had introduced Monish to Rasikbhai, the applicant in ABA/3199/2023, as the person through whom the money could be transferred to South Africa for purchasing diamonds. A sum of Rs.42,00,000/- was paid by the applicants to the said Monish for transfer to South Africa. However, the said money was not transferred by Monish to the concerned persons in South Africa. Monish fled away.

4. The first informant alleged, the applicants – partners of M/s. Shriram Impex, asked the deceased to make good the loss and started to harass him. The deceased returned to Mumbai. The applicant, however, lodged a false report at Varachha Police Station, Surat City, against the deceased and Monish for the offences punishable under Sections 120B, 406, 420, 467, 468 and 471 read with Section 34 of the Penal Code. The applicants allegedly repetitively called the deceased

on phone and threatened him with dire consequences. The first informant alleges, on account false accusation and harassment at the hands of the applicants, the deceased died by suicide by leaving two suicide notes.

5. When ABA/3199/2023 was listed before the Court on 11th December, 2023, this Court was persuaded to grant interim bail to Rasikbhai Kevadiya, the applicant therein, observing *inter alia* as under:

“10. Prima facie, it appears that the applicant had filed a complaint against the deceased and Monish Sutar, first in point of time. In the circumstances, whether the lodging of complaint alleging cheating and forgery by the deceased constitutes instigation or intentional aid so as to commit suicide warrants consideration. Prima facie, the said act of filing complaint not be construed as a direct or proximate act designed to drive the deceased to commit suicide. Therefore, till the matter is heard after providing an opportunity to the prosecution and the first informant, it may be expedient to protect the liberty of the applicant.”

6. Based on the aforesaid order in ABA/106/2024 interim bail came to be granted to Nilesh Patel, Sandip Patel and Rohitbhai Diyora, the other partners of M/s. Shriram Impex, by an order dated 16th January, 2024.

7. Mr. Shubham More, the learned Counsel for the applicants, submitted that pursuant to the aforesaid order, the applicants have appeared before the Investigating Officer and rendered the requisite cooperation. In the backdrop of the nature of the accusation, according to Mr. More, further

custodial interrogation of the applicants is not warranted. Emphasis was laid on the fact that the applicant in ABA/3199/2023 had lodged report against the deceased and Monish, prior in point of time. The applicants were pursuing their legitimate claims. Therefore, it cannot be said that the applicants abetted the commit suicide by the deceased.

8. Mr. Dedhia, the learned APP and Mr. Kharat, the learned Counsel for respondent No.2, opposed the prayer for pre-arrest bail. An endeavour was made to draw home the point that on account of the harassment and ill-treatment at the hands of the applicants, the deceased died by suicide as the harassment became unbearable. Thus, a *prima facie* case for abetment can be said to have been made out.

9. It is imperative to note that in the FIR itself the first informant alleged that the accused had given a sum of Rs.42,00,000/- to Monish and the latter did not transfer the said amount to the concerned persons in South Africa. Monish did not transfer the amount, as promised, and fled away.

10. With regard to the aforesaid incident, FIR was lodged prior in point of time by Rasikbhai, the applicant in ABA/3199/2023. *Prima facie* it appears that the partners of

M/s. Shriram Impex were pursuing legitimate legal remedies. The lodging of the report alleging commission of the offences of cheating and forgery may not ordinarily constitute instigation or intentional aid to commit suicide. In the backdrop of the allegations in the FIR that Monish had fled away after accepting a sum of Rs.42,00,000/-, it cannot be said that Rasikbhai lodged the report with intent to goad the deceased to commit suicide.

11. To put it in other words, whether the said act of lodging the report can be construed as a direct or proximate act actuated by a design to drive the deceased to commit suicide, appears to be a matter for adjudication at the trial.

12. In the totality of the circumstances, the custodial interrogation of the applicants does not seem warranted to facilitate further investigation. The applicants appear to have roots in society. Possibility of tampering with evidence and fleeing away from justice seems remote. I am, therefore, inclined to exercise the discretion in favour of the applicants.

13. Hence the following order:

: O R D E R :

- (i) Orders of interim bail dated 11th December, 2023 in ABA/3199/2023 and 16th January, 2024 in

ABA/106/2024 are made absolute on the terms and conditions incorporated therein.

- (ii) In addition, the applicants shall regularly attend the proceedings before the jurisdictional court.
- (iii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Applications disposed.

[N. J. JAMADAR, J.]