



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 ANTICIPATORY BAIL APPLICATION NO. 1763 OF 2024

VITTHAL LAXMANNNA DEVAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

.....
Mr. Taher Ali Quadri, Advocate for Applicants
Mr. S. B. Jadhav, APP for the respondent/State
.....

WITH
CRIMINAL APPLICATION NO. 4804 OF 2024
IN ABA/1763/2024
YASHODABAI BABU KOLPEWAD
VERSUS
VITTHAL LAXMANNNA DEVAD AND OTHERS

.....
Mr. G. G. Kadam, Advocate for Applicant

CORAM : R. M. JOSHI, J.
DATE : 16th JANUARY, 2025

PER COURT :-

1. At the outset learned counsel Mr. Kadam appears on behalf of the informant to assist the APP.
2. Having regard to the nature of offence, he may be permitted to assist the APP. Hence, his application stands allowed.
3. Applicants apprehend arrest in connection with Crime No. 331/2024, registered with Bhokar Police Station, Dist. Nanded for the offence punishable under Sections 108, 3(5) of the Bharatiya Nyaya

Sanhita, 2023.

4. The first information report indicates that there was a transaction of sale effected on 4th March, 2024 in respect of the gut no. 54 admeasuring 59 R. It is alleged by the informant that the present applicants misrepresented her husband and the said document was obtained. It is also alleged that though sale deed is obtained in respect of said property the consideration was paid to the vendor. There is also allegation that when the deceased went to the applicants, the applicants assaulted him with fist and kick blows. Similarly, they lodged NC bearing No. 453/2024 against her husband. It is claimed that because of all these things there was a mental harassment caused to the husband. This, according to her has resulted into deceased i.e. her husband committing suicide on 09/09/2024.

4. Learned counsel for the applicants submits that this is a case wherein the registered sale deed is preceded by an agreement to sale. He also drew attention of the Court to the transaction of sale between the same parties of year 2016 and herein also the consideration was accepted in cash by the vendor i.e. deceased. It is his submission that there is no nexus in the act of commission of suicide by the deceased and the alleged harassment caused to him.

5. Learned counsel for the informant opposed the application by contending that it is not acceptable that any amount more than Rs.20,000/- is paid in cash which is prohibited by law. Similarly it is his contention that merely because earlier similar nature of transaction was effected by the deceased, it cannot be presumed that the present transaction is genuine one. He drew attention of the Court to the fact that there is conviction recorded against applicant no.1 for the offences punishable under Sections 324, 323, 504 and 506 of the Indian Penal Code. He also submitted that if the applicants granted pre arrest bail, they are likely to pressurize the witnesses and cause interference in the investigation process and evidence of the prosecution. To support his submission he placed reliance on NC recorded by Balaji.

6. Learned APP opposed the application by seriousness of the crime.

7. *Prima facie* perusal of the record and in particular first information report indicates that there is a registered sale deed executed by the deceased in favour of the applicants on 04/03/2024. Unfortunately death of the deceased is caused on 09/09/2024 as he hanged himself. Thus, a period of over six months has lapsed in between the execution of the sale deed. Therefore, this Court finds not

possible to accept the contention of the learned counsel for the informant that because of execution of sale deed and non payment of the consideration, the deceased committed suicide. For immediate nexus to the incident of suicide of any act of the applicants, there is no reason for denying the pre arrest bail. In any case, contention of informant about non receipt of consideration or deficit receipt, is a dispute civil in nature.

8. As far as other contentions of the learned counsel for the informant about there could not be payment of more than Rs.20,000/- in cash is concerned, this Court cannot decide correctness of the said transaction. Suffice it to say that even on the previous occasion i.e. year 2016 the deceased had received the consideration in cash. This indicates that parties are used to entering into transaction of this nature.

9. Having regard to these facts, there is no reason to reject the application. Hence, allowed in terms of interim order dated 17/10/2024. Pending application, if any, stands disposed of.

10. Needless to say that observations made herein are restricted to the decision of this application only.

(R. M. JOSHI, J.)

ssp