

MHTH060032332022



ORDER BELOW EXH. 1 IN
CRIMINAL BAIL APPLN. NO. 1780/2022 (ANTICIPATORY)

It is an application under Section 438 of the Code of Criminal Procedure (in short 'Cr.P.C.') filed by the applicants viz. 1] Sandip @ Pintya Kanha Patil, 2] Randip @ Bhau Kanha Patil, 3] Hemant Kanha Patil, 4] Chetan Kanha Patil, 5] Yogesh Madhukar Patil, 6] Madhukar Krishna Patil, 7] Dattatray Krishna Patil, 8] Pravin Pundalik Patil, 9] Harshal Dattatray Patil, 10] Rutik Baliram Patil, and 11] Aasthik @ Lankesh Baliram Patil for grant of anticipatory bail in connection with Crime No. I - 1268/2022 registered with Thane Railway police station for the offence punishable under Section 306, r/w. Section 34 of the Indian Penal Code (in short 'IPC').

2] It is the prosecution case that, one Chandrakant Narayan Patil lodged report to police station on 10/09/2022 alleging therein that he alongwith his four brothers alongwith their family members are residing at Narayan Smruti Bungalow, Sandap Gaon, Diva Manpada Road, Taluka Kalyan, District Thane. They are doing water supply business. His another brother Shivdas is doing the business of building

material supply, his deceased brother Pralhad was doing the business of cable and internet service, his another brothers Sanjay Patil and Dinesh Patil are residing in another bungalow opposite to their Narayan Smruti Building and they are having independent business.

It is alleged that deceased Pralhad from last 20 years was doing the business of cable and internet service in their village and nearby the area. His office was at Lodha Regency, Manpada, Dombivali (W). From last 6-7 months, Sandeep @ Pintya Kanha Patil, his brother Randeep Kanha Patil, Hemant Kanha Patil, Chetan Kanha Patil, Yogesh Madhukar Patil have started cable and internet service in their area by taking over the cable service from Sandeep Gopinath Mali and Kundan Gopinath Mali and started office in front of the office of deceased Pralhad. Sandeep Patil and his brothers had assaulted his brother Shivdas with the help of fighter and wooden handle, therefore, his brother Shivdas had filed report against them at police station. Police after investigation have filed charge-sheet against them which is pending in Kalyan Court wherein the evidence of two witnesses were recorded including the deceased Pralhad.

It is alleged that Sandeep Patil and his brothers started harassing the deceased Pralhad with the help of others by cutting the cable and internet wire so as to increase their business. On that count several times there was quarrel

in between them. Therefore, deceased Pralhad was under tension. Deceased had given complaint against Sandeep Patil and others at Manpada police station. On 10/09/2022, deceased had been to his office in the morning, but did not return. Therefore, he instructed his younger brother Shivdas to make enquiry. After sometime Shivdas informed him that deceased Pralhad had sent him video clip by stating that due to constant harassment by Sandeep Mali, Kundan Mali, Sandeep Patil and his brothers, he is committing suicide. He has kept suicide note in the drawer of the table at his house. After sometime he received phone call of one Dinesh Sante informing him that his brother deceased Pralhad is lying in injured condition by the side of the railway track in between Dativali to Nilje. Therefore, they rushed to the said place, police had also come there. Deceased Pralhad was taken to Balaji Hospital, Mumbra. Police had collected mobile handset of the deceased and suicide note found under the cover of the said mobile handset. The Medical Officer present at Balaji Hospital declared Pralhad as dead. As per information received from video clip and suicide note, suicide note was recovered from the drawer of the cheque book from the house of deceased alongwith two stamp papers. On the basis of report filed by the informant, aforesaid crime is registered against the applicants.

3] It is contended by the applicants that they are innocent and have not committed any offence. Applicant Nos.

1 to 4 are the real brothers, applicant Nos. 3 and 4 are well qualified, applicant Nos. 5 & 6 are having their own business, applicant No.7 is an agriculturist and applicant Nos. 8 to 11 are pursuing for their studies. The criminal antecedents of applicants are clean. They have good reputation in the Society. However, they are receiving phone calls from Thane Railway Police Station in connection with the aforesaid crime, therefore, they have apprehension of their arrest.

It is contended that applicants have been falsely implicated in the aforesaid crime. The offence is not punishable with death or imprisonment for life. It seems that deceased Pralhad took it as competition to his business and started grumbling about the same with police, however, no cognizance was taken by the police at any time nor any case was launched against the applicants. Applicants never carried an intention that deceased Pralhad would commit suicide. In facts, applicants are carrying their own licensed business in the area with all requisite permissions and the general public responded them. Although alleged quarrels have taken place in the past, but no quarrel was taken place soon before the report or before committing suicide by the deceased. There is no iota of evidence on record to show that there is nexus between the act of applicants and the alleged suicide. There is nothing on record to attract ingredients of Section 306 of IPC. It seems that deceased Pralhad committed suicide out of domestic rift in his family arising out of financial crisis. The

custodial interrogation of applicants is not at all necessary. Therefore, applicants deserve anticipatory bail.

4] Prosecution resisted the application by filing detail say at Exh.10. It is contended by the prosecution that in course of investigation it reveals that applicants and co-accused subjected the deceased with constant harassment, he was threatened for his life and compelled him to commit suicide. Deceased had made specific allegations against the present applicants in video clip as well as suicide note and bond paper written by him. It further reveals that the co-accused Sandeep Mali and Kundan Mali are having criminal background. Several crimes have been registered against them. They started business in the area of deceased Pralhad by utilizing the services of Den New Brand Communication Private Ltd. Therefore, on that count there was dispute between them and they threatened the deceased on that count. Therefore, he was under tremendous fear of them. As such he had not noted their names in the suicide note. In course of investigation, one stamp paper dated 11/02/2016 is found in the house of deceased wherein allegations have been made against the co-accused Prathamesh Patil and his colleagues. One another stamp dated 11/06/2021 which is found in the drawer wherein it is specifically mentioned that applicants and co-accused threatened the deceased to finish from his business and by causing damage to the cable and internet services. It also reveals that deceased had lodged

report soon before the incident for causing damage to his cable service and on the basis of report, N.C. Case is registered. The co-accused Sandeep Mali and Kundan Mali are having criminal background of serious offences like murder, extortion and rape etc. The orders have been also passed against Sandeep Mali for externment. It is therefore contended that it is not suicide of deceased on account of frustration in the business. But it is the case wherein applicants and co-accused had constantly tortured the deceased, caused damage to the cable wire and created such a situation that he should not remain any other alternative except to commit suicide. It is contended that there is sufficient material to show that applicants had knowledge that because of atmosphere created by them deceased may commit suicide. Therefore, it being a serious offence, investigation is at initial stage, custodial interrogation of applicant is necessary. The co-accused are having terror in the vicinity. If applicants are granted anticipatory bail, no one would come forward to support the prosecution case. Therefore, application may please be rejected.

5] Informant has resisted the application by filing written submission at Exh.13/1. Informant has given the manner in which applicants harassed the deceased Pralhad and his family members since 2010 and onwards. It is contended that in the year 2010 applicants have assaulted Shivdas, brother of informant and deceased by fighter and

wooden handle. Therefore, report was lodged against them. On the basis of report, crime was registered against the applicants and co-accused. After investigation charge-sheet is filed against them. The said case is pending in Kalyan Court which is pending for recording evidence of witnesses including the evidence of deceased Pralhad. Before 5-6 months back, applicants had taken over the cable business of co-accused and started giving more harassment to the deceased Pralhad by causing damage to his business. Therefore, deceased approached police time to time and lodged complaints against the applicants. Applicants and co-accused continued their illegal activities, therefore, they approached to police and Cable Association and requested for help for their business. Even they requested Den New Brand Communication Private Ltd. not to allow the applicants and co-accused to carry their business in their area of Den Services. The material collected by the Investigating Officer itself shows that applicants and co-accused constantly harassing the deceased, therefore, deceased had no any other alternative except to commit suicide. Therefore, applicants do not deserve anticipatory bail. In support, informant has produced on record several documents at Exhs. 13/2 to Exh.13/7.

6] Heard the learned advocate of applicants. He has submitted that there might have criminal case in between the family members of deceased Pralhad and applicants in the

year 2010, but there is nothing on record to show that applicants in any way tortured the deceased Pralhad and thus instigated him to commit suicide. Applicants are carrying on business lawfully. In support, he has placed on record the copy of registration certificate of business of applicants, GST certificate below list (Exh.11). He submits that applicants are also facing difficulty in their business as deceased Pralhad had caused damage to their cable wire. As such N.C. Case has been registered against him on 11/06/2021. He submits that every citizen has right to carry business at any place as per his choice and in such business there might have up and down depending upon the services provided to the customers. If the services of applicants is found satisfactory and number of customers increased, for that applicants can not be held responsible. He submits that because of decrease in the business, deceased Pralhad might not have tolerated it and had taken extreme steps but for that applicants can not be held responsible.

He submits that there is no proximity in between the act of applicants and suicide of the deceased. He submits that the law on this point is well settled. In support, he relied upon the case of i] **Digambar Bhujang Kamble vs State of Maharashtra & Ors. 2012 ALL MR (Cri) 2526** wherein there was quarrel on account of fetching of water from the common water tap connection. On account of the said quarrel and extended threats by the accused, deceased consumed

poison and committed suicide. In that context His Lordships has observed that there must not be evidence to show that accused intended and was certain that person abetted would commit suicide, ii] in the case of **Arnab Manoranjan Goswami vs State of Maharashtra & Ors., 2020 ALL MR (Cri) 4347 (S.C.)** deceased committed suicide due to failure to receive payment of money from accused, therefore, it is held that no case of abetment of suicide under Section 306 of IPC is made out, iii] in the case of **Yogesh s/o. Prabhakar Marathe vs State of Maharashtra & Anr. 2021 ALL MR (Cri) 2476**, deceased on account of persistent demand of payment of interest on borrowed money committed suicide. It is therefore held that on account of the said dispute accused insisted the deceased to pay interest but deceased committed suicide. In that context, it is held that accused are more interested in money than finding their borrower died. Therefore, no case under Section 306 of IPC, iv] in the case of **Manoj Dashrath Khaire & Ors. Vs State of Maharashtra, 2021 ALL MR (Cri) 3539**, deceased was receiving threatening calls from unknown person, and on account of the said pressure he committed suicide. The contents of the suicide note itself demonstrates frustration of the deceased, therefore, it is held that no case of abetment is made out, v] **Imran s/o. Masood Khan and Anr. Vs State of Maharashtra, 2019 ALL MR (Cri) 2838**, this case also relates to persistent demand of money and threats and in consequences thereof deceased committed suicide. It is

therefore held that no case is made out under Section 306 of IPC.

7] On the other hand, the learned APP for the State and the Investigating Officer have vehemently submitted that it is not a fair business competition, out of which deceased got frustrated and committed suicide. Undisputedly, there was enmity between the applicants and deceased on account of the incident taken place in the year 2010 and applicants have been prosecuted by police. They are facing trial. It is a part-heard case. Recently applicants have taken over the business of accused Nos. 1 and 2, who are having extensive criminal record of serious offences. Deceased tried to sort out the issue by approaching the Cable Association and by approaching the police. But applicants and co-accused in order to shut down the business of deceased Pralhad caused damage to their cables. Therefore, from the investigation it reveals that deceased Pralhad was getting threats from the applicants and co-accused, therefore, he had prepared stamp paper to that effect and specifically mentioned therein the names of applicants and co-accused. Applicants and co-accused had not kept any other alternative to the deceased except to commit suicide. The investigation is at initial stage. Taking into consideration the criminal background of applicants and co-accused, if applicants are granted anticipatory bail, it will seriously prejudice the investigation. Therefore, applicants do not deserve anticipatory bail.

8] The learned APP for the State has submitted that the law laid down in the aforesaid rulings is not helpful in this case. The facts of those cases are quite different than the facts of the present case. Here, in this case, the facts itself demonstrates that applicants have exceeded their limits knowingly well that by such illegal acts deceased may commit suicide. Therefore, it is not a case to grant anticipatory bail to the applicants.

9] The learned advocate of the informant has also seriously objected the bail application by pointing out chronological events taken place since year 2010. He has pointed out how the deceased was under fear of the co-accused because of their criminal background and he could not dare to mention their names in the complaint, either to police or association. Consistent damage to the cable wires, deceased Pralhad was compelled to ventilate grievances before the Cable Association. Not only this he approached to the Den New Brand Communication Private Ltd. and requested them that applicants may not be allowed to provide cable and network services of Den Brand in his area. The contents of the N.C. Case filed by the applicants itself supports the case of prosecution. Deceased had sent three video clips to his brother, prepared bond paper to that effect, written down the suicide note and specifically mentioned the names of applicants therein and finished his life over railway track. Since deceased Pralhad was in business since last 20

years, he did not attempt to commit suicide. But extreme dispute arose only when applicants entered in the said business before 6-7 months. Applicants had grudge against the deceased since 2010, applicants were in apprehension that in criminal case filed against them they are likely to be convicted. Therefore, they were trying to harass the deceased Pralhad and his family on one or other way and also by taking over the business of accused Nos. 1 and 2 who are already having criminal background of serious offences. It is therefore submitted that it is not a case of fair business competition and on account of frustration deceased committed suicide. This crime requires thorough investigation, therefore, applicants do not deserve anticipatory bail.

10] I have given thoughtful consideration to the rival submission. Perused the documents filed on record. Perused the investigation papers. It is well settled that while considering application for bail, scope for appreciation of evidence and other material on record is limited. The Court is not expected to indulge in critical analysis of evidence on record. In this case, it clearly reveals from the record that applicants had assaulted the brother of deceased namely Shivdas in the year 2010 and on account of said incident applicants have been charge-sheeted. The said case is pending in Kalyan Court and now the evidence of witnesses is recorded including the evidence of deceased Pralhad. It

further reveals that applicants have taken over the business of co-accused who are having criminal background of serious offences like murder, attempt to commit murder, extortion, rape etc. Since when applicants taken over the business of co-accused, there used to be dispute between the applicants and deceased Pralhad. It further appears that complaints have been filed against each other to the police as regards causing damage to the cable wire. It seems that deceased Pralhad approached to the police as well as Cable Association as regards to the difficulties facing by him in his area on account of applicants. It further reveals that deceased Pralhad was having Den New Brand Communication Private Ltd. in his area. But it seems that applicants had also started supplying services of Den in the area of deceased Pralhad. Therefore, deceased Pralhad approached to the Cable Association Den New Brand Communication Private Ltd. At the same time he was facing damages to his cable services and on that count there was quarrel in between the applicants and deceased and applicants threatened him. Deceased had prepared stamp paper mentioning the names of applicants who are creating situation so that he should commit suicide. Even on the date of incident deceased had sent three video clips to his brother and informed him that he has committed suicide because of applicants. As per information received from the said video clips, bond paper and suicide note and suicide note received from the place where deceased committed suicide, report is

lodged. All these aforesaid facts if taken into consideration it shows that applicant could reasonable knew that because of their conduct deceased was certain or at least likely to commit suicide. The investigation is at initial stage. Taking into consideration the criminal background of applicants and co-accused it appears to me that there is sufficient material which prima facie attracts ingredients of Section 306 of IPC, therefore, for thorough investigation the custodial interrogation of applicants is necessary. Even otherwise taking into consideration the gravity of offence, applicants do not deserve anticipatory bail. In the given the set of facts and considering the stage of this case, it appears to me that the law laid down in the aforesaid rulings cited by the applicants is not applicable to the facts of the case. Consequently, I proceed to pass following order.

: ORDER :

- 1] Application filed by the applicants viz. 1] Sandip @ Pintya Kanha Patil, 2] Randip @ Bhau Kanha Patil, 3] Hemant Kanha Patil, 4] Chetan Kanha Patil, 5] Yogesh Madhukar Patil, 6] Madhukar Krishna Patil, 7] Dattatray Krishna Patil, 8] Pravin Pundalik Patil, 9] Harshal Dattatray Patil, 10] Rutik Baliram Patil, and 11] Aasthik @ Lankesh Baliram Patil for grant of anticipatory bail is rejected.
- 2] Inform to the concerned police station accordingly.

Sd/-

(S.B.Kachare)

Date : 28/09/2022.

Addl. Sessions Judge, Kalyan

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