

99149 - Should he take a riba based loan to save his father from going to prison?

the question

My father owns two pieces of land. He invested one of them in an agricultural project depending on his own money, governmental grants, and an interest-based loan. Since he could not complete his first project, he had to invest the second piece in another agricultural project. But the state here and the agricultural bank do not give money for more than one project at one time. So I rented the second piece of land from my father and wrote it in my name. And thus I considered it helping my father (I do not really run the project, I just did this being good to my father).

My father continued his project and became heavily in debt, and became fully dependant on the second loan. That time I knew that the interest-based loans are considered Riba, and that it is considered great sin, no difference in that between the one who takes it, gives it, witnesses it or write it down.

Since I refused to sign the second loan, we tried to find another source for money. But it is very difficult to find the needed amount of money in a little time. Especially that we became badly in need for money, as we must spend to take care of the trees or they will die and be lost.

My father had to write cheques, without funds in his bank, so he is exposed to be jailed. (In our country if you cannot pay then you will be jailed). Thus he will not be able to pay off his debt; he will loose also his project and his mortgaged land.

The question:

Are the mentioned above circumstances considered necessity that allows me to sign on the second loan?

Detailed answer

Firstly:

It is obvious

to you that taking riba based loans is haraam, and that it is a major sin which incurs the wrath and punishment of Allaah, and the one who does that is given a threat of war from Allaah. Hence the one who resorts to that rarely succeeds.

Based on this,

your father has to repent to Allaah and regret what he has done, and resolve not to do it again in the future.

Secondly:

Your father

should look for means of getting the money he needs, such as tawarruq, which means buying something to be paid for in instalments, then selling it to someone else for a lower price to be paid in cash. Thus he will be able to get money with which to pay off what he owes. Or he may deal in salam, and sell a known amount of produce on the basis that he will hand it over after one or two years, and take the money for it now.

The Prophet

(peace and blessings of Allaah be upon him) said: "Whoever pays for something in advance, let him pay in advance for a specified measure and a specified weight, for a specified amount of time." Narrated by al-Bukhaari (2241) and Muslim (1604).

If he cannot

find any permissible means of getting the money to pay off the debt, and that will result in him going to prison and losing the land that is mortgaged to the bank, then this is a case of necessity which makes it permissible to engage in riba.

See question

no. [94823](#) for the guidelines on what constitutes a necessity that makes it permissible to engage in riba.

If your father

can take the loan himself, then it is not permissible for you to engage in riba under any circumstances; if he cannot take a loan, we put your question to Shaykh Dr. Khaalid al-Mushayqih (may Allaah preserve him) and he replied that it is permissible for you to take a loan in that case. He said:

Undoubtedly riba is haraam and a major sin, and the one who does that is cursed and in a state of war with Allaah. Because that is the case, one should try to avoid it. But the principle is that cases of necessity make forbidden things permissible. If that will lead to harmful consequences for the father, whether it is prison or a penalty and so on, then it seems that there is nothing wrong with it, but if they can find a better way such as a loan and salam and so on, then that is preferable.

O Shaykh: the

necessity in this case applies to the father and not to the son; is the ruling the same?

He said: Yes,

the ruling is the same. End quote.

We also asked

Shaykh Dr. 'Abd al-'Azeez al-Fawzaan (may Allaah preserve him) the

following: There is a man whose father will be imprisoned because of debt;
can he take a riba based loan to save his father?

He replied: If

he cannot find any other way, then I hope that there will be no sin on him
because of necessity but he should hate riba in his heart. End quote.

And Allaah
knows best.