

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 198 OF 2015

Shaikh Amir Shaikh Bhaimiya **APPLICANT**

V E R S U S

Abdul Gani Sk. Kamkaroddin & Ors. **RESPONDENTS**

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Mr. Joydeep Chatterji, Advocate for Applicant.

Mr. M.M.Nerlikar, A.P.P. for R– 5 State.

Mr. R.S.Deshmukh, Advocate for R – 1 to 4.

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CORAM : V.M.DESHPANDE, J.

DATE : 24th MARCH, 2015

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PER COURT :

1. This is an application for cancellation of anticipatory bail which was granted in favour of respondent Nos. 1 to 4 by the learned Additional Sessions Judge, Jalgaon by Judgment and Order dated 30/12/2014.

2. Heard Mr. Joydeep Chatterji, the learned counsel for Applicant, Mr. R.S.Deshmukh, the learned counsel for respondent Nos. 1 to 4 and Mr.M.M.Nerlikar, the learned A.P.P. for Respondent No. 5 – State.

3. Respondent Nos. 1 to 4 were arrayed as accused in Crime No. 212/2014 registered with police station Pachora for the offences punishable u/s 307, 392, 427, 149, 504, 506 of the Indian Penal Code along with other accused persons. The learned counsel for the applicant vehemently urged before this Court that the learned trial Court has committed serious mistake in granting anticipatory bail in favour of respondent Nos. 1 to 4 by not considering the antecedents of one of the respondents i.e. respondent No. 1. He submitted that the learned Judge of the trial Court ought to have given cumulative effect of the F.I.R and ought not to have granted the anticipatory bail.

4. Per contra, Mr. R.S. Deshmukh, the learned counsel for respondent Nos. 1 to 4 pointed out to this Court the nature of the accusation made in the F.I.R. against respondent Nos. 1 to 4.

From the F.I.R., murderous assault is attributed to Vasim Shaikh Gulam and Shaikh Maheboob, who were arrested by police and ultimately they are released on regular bail. The F.I.R., even if it is taken on its face value, would not travel beyond the instigation so far as the present respondent Nos. 1 to 4 are concerned. No overt act is attributed to them.

5. The learned Judge of the Court below while granting anticipatory bail to respondent nos. 1 to 4, in my view, has correctly scanned the F.I.R. and has rightly granted anticipatory bail in their favour. While exercising the discretion in favour of respondent Nos. 1 to 4, in my view, the

learned Judge of the Court below has not committed any illegality. Further, it is not the case of the first informant/present applicant or even on the part of the learned A.P.P. that after grant of anticipatory bail in favour of respondent Nos. 1 to 4, they have mis-used the liberty granted to them. When the discretion is correctly exercised by the learned Judge of the Court below on the given set of facts, I see no reason to interfere with the well reasoned order.

6. With these observations, present Criminal Application is rejected.

[V.M.DESHPANDE, J.]