

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICTION NO.2421 OF 2015.

**Kedar Sanjay Solanki.
Versus.
The State of Maharashtra.**

Appearance =>

Mr. Uday Malte, Advocate for the Applicant.

Mrs. S.G. Chincholkar, Additional Public Prosecutor for the State of Maharashtra.

Mr. S.R. Andhale, Advocate for the First Informant.

CORAM : V.M. Deshpande, J.

DATE : 10th June, 2015.

Per Court :-

Present Criminal Application is filed by the applicant for grant of anticipatory bail, since he is apprehending his arrest in connection with CR No. I 151/2013 registered with Police Station, Topkhana, Ahmednagar District - Ahmednagar for the offences punishable under Section/s 302, 326, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under Section 27(1)(3) read with 135 of the Bombay Police Act.

[2] Heard Mr. Uday Malte, learned counsel for the Applicant, Mrs. S.G. Chincholkar, learned Additional Public Prosecutor for the State and Mr. S.R. Andhale, learned counsel for the First Informant.

Application for anticipatory bail is opposed by the learned Additional Public Prosecutor and the learned counsel for the first informant on the ground that the applicant is absconding.

[3] Merely because the applicant was alleged to be absconding that by itself does not dis-entitle him for consideration of his prayer under Section 438 of the Code of Criminal Procedure, his application has to be decided on its own merit.

[4] In the First Information Report dated 6th April, 2013 filed by Deepak Ramdas Bhingardive in respect of injuries suffered by Vishal and Deepak and in respect of death of Satej @ Chindu Uttam Alhat, name of the present applicant is not appearing in the First Information Report.

[5] According to the learned counsel opposing bail application, name of the present applicant is appearing in the supplementary statement of Deepak which is recorded on 30th April, 2013 i.e. precisely after 24 days of the First Information Report.

[6] Charge sheet is already filed. I have gone through the said supplementary statements. Said supplementary statements clearly reveal that material which the learned Additional Public Prosecutor is trying to press into service is inadmissible evidence; since the said statement is on the basis of statement of co accused. Statement of co-accused is not admissible. According to the learned Additional Public Prosecutor except this there is no material against the present applicant. Thus, the applicant has succeeded in pointing out prima facie case so as to exercise discretion in his favour. Hence, I pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) In the event of arrest, Applicant - Kedar Sanjay Solanki shall be released on anticipatory bail on he executing P.R. Bond of Rs. 25,000/- [Rs. Twenty Five Thousand.] with one solvent surety in the like amount, in connection with CR No. I 151/2013 registered with Police Station, Topkhana, Ahmednagar District - Ahmednagar for the offences punishable under Section/s 302, 326, 504, 506, 143, 147, 148, 149 of the Indian Penal Code and under Section 27(1)(3) read with 135 of the Bombay Police Act.

(iii) The Applicant shall attend Police Station, Topkhana, Ahmednagar District - Ahmednagar twice in a week, preferably on every Friday and Sunday and shall present there between 2.00 to 5.00 p.m., till trial is over.

(iv) With this Criminal Application is allowed and same is disposed of accordingly.

(V.M. DESHPANDE, J.)