

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

CRIMINAL APPLICATION NO. 3393 OF 2015.
WITH
CRIMINAL APPLICATION NO.3397/2015.

CRIMINAL APPLICATION NO.
3393 OF 2015.

CRIMINAL APPLICATION NO.
3397 OF 2015.

BALASAHEB RAGHUNATH
POKALE
VERSUS
THE STATE OF MAHARASHTRA.

SUBHASH BABAN MULE.
VERSUS
THE STATE OF MAHARASHTRA.

Appearance =>

Mr. Ajeet Kale, Advocate for the Applicants in both the Criminal Applications.

Mr. V.H. Dighe, Additional Public Prosecutor for the State of Maharashtra.

CORAM : **VM. Deshpande, J.**

DATE : **23rd July, 2015.**

Per Court :-

Present Criminal Applications are filed by the Applicants for grant of anticipatory bail in connection with CR No.I 94/2015 registered with Police Station, Jamkhed District – Ahmednagar for the offences punishable under Section/s 307, 147, 148, 149, 323 of the Indian Penal Code and under Section 3 read with 25 of Arms Act.

[2] Heard Mr. Ajeet Kale, learned counsel for the Applicants in both the Criminal Applications and Mr. V.H. Dighe, learned Additional Public Prosecutor for the State of Maharashtra.

[3] Initially on the basis of report lodged by Rahul Hiranman Andhare, offence was registered at Police Stn. for the offences punishable under Sec.s. 147, 148, 149, 323 of the Indian Penal Code.

First Information Report discloses that on 7th June, 2015 when the First Informant was about to close his “Laxmi Kala Kendra” that time, five persons alighted from the motor vehicle and picked up a quarrel with the First Informant. That time, other persons came there to intervene in the quarrel. It is further alleged that, at that particular point of time, one person amongst the persons who were alighted from the motorcar, opened a fire in air. The First Informant and others were successful to caught hold two persons namely Abhijeet Vishwanath Raskar and Vishal Mahadeo Chobhe. First Information Report further states that, these two persons who were apprehended there, disclosed the name of Balasaheb Raghunath Pokale as a person, who opened the fire in air.

[4] It is to be noted that, offence punishable under Section 3 read with 25 of Arms Act is a bailable offence. It appears that, supplementary statement of First Informant – Rahul was recorded by the Police, where-in for the first time, he disclosed that, Applicant – Balasaheb Pokale kept a barrel-gun on his head and when he was about to fire; that time, one Dadasaheb Jadhav gave a blow on the hand of the Applicant - Balasaheb, therefore, it resulted fire in the air.

[5] It is hard to believe that at the time of lodging of the First Information Report, first informant will miss such an important fact to narrate to the Police about the specific overt act, which he has disclosed in his supplementary statement.

After recording of such supplementary statement, offence punishable under Section 307 of the Indian Penal Code, which is non bailable offence is added in the Crime.

[6] Mr. Dighe, learned Additional Public Prosecutor has filed detail reply in the matter. From the reply, it is clear that, the Revolver which was alleged to have been used in the commission of offence has already been seized from the accused, who were arrested. According to the learned Additional Public Prosecutor, custody of the Applicant - Balasaheb is necessary so as to ascertain from where the Applicant – Balasaheb has purchased the said Revolver.

Further in so far as Applicant – Subhash Mule is concerned, there is no overt act either in the First Information Report or there is no material collected during the course of investigation.

[7] In so far as ascertaining the shop from where the Applicant – Balasaheb Pokale alleged to have purchased the already seized Revolver, in my view, custody of Applicant – Balasaheb is not necessary. Further in so far as Applicant Subhash Mule is concerned, in view of the fact that, no overt act is given and since the prosecution was unable to point out any incriminating material collected against him during the course of investigation, his custody is also not necessary. That leads me to pass the following order :-

ORDER

(i) Criminal Application No.3393/15 and Criminal Application No.3397/15 are allowed.

(ii) BALASAHEB RAGHUNATH POKALE - Applicant in Criminal Application No.3393/15 and SUBHASH BABAN MULE - Applicant in Criminal Application No.3397/15 shall be released on anticipatory bail on they executing P.R. Bond of Rs. 10,000/- [Rs. Ten Thousand.] each with one solvent surety in the like amount, in connection with CR No.I 94/2015 registered with Police Station, Jamkhed District – Ahmednagar for the offences punishable under Section/s 307, 147, 148, 149, 323 of the Indian Penal Code and under Section 3 read with 25 of Arms Act.

(iii) Both the Applicants are directed to attend Police Station, Jamkhed District – Ahmednagar twice in a week, preferably on every Sunday and Tuesday between 3.00 to 5.00 p.m., till Charge Sheet is filed.

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

(V.M. DESHPANDE, J.)