

(1)

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

CRIMINAL APPLICATION NO.4950 OF 2015

Suresh Narayan Sangekar

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr R.S. Deshmukh, Advocate holding for Mr T.M. Venjane, Advocate for applicant;

Mr G.O. Wattamwar, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 27th October, 2015

ORAL ORDER :

By the present application, the applicant, who is an employee of the Police Department, seeks his release on bail, in the event of arrest, in connection with C.R. No.70 of 2015, registered with Kalamnuri police station, Tq. Kalamnuri, Dist. Hingoli, for offences punishable under sections 302, 307, 120-B, 143, 147, 148 and 149 of the Indian Penal Code.

2. The prosecution case against the present applicant is that, his father-in-law and other family members have attacked the brother of the complainant, namely, Shivanand Waykole, and thereby caused his death.

3. The dispute has occurred out of possession of the agricultural land.

4. It is not in dispute that the entire family of father-in-law of the applicant is named as accused in the commission of crime and Ganesh Bapurao Waykole is said to be an eye-witness to the incident.

5. While trying to make out a case for grant of pre-arrest bail, Mr Deshmukh, learned Counsel appearing on behalf of the applicant, would

(2)

urge that upon perusal of the first information report, it reveals that the applicant is referred as son-in-law of accused Subhash and the role attributed to the present applicant is that of use of sickle in the commission of the crime.

6. Learned Counsel would then urge that, after registration of the offence, the investigation was set into motion and the role of the present applicant, in commission of the crime, was also investigated into. According to him, the charge-sheet in the matter is filed and could be looked into *qua* involvement of the present applicant in commission of the crime. With a view to substantiate his contentions, he has taken me through the call details of the applicant, which are placed on record during the investigation, so as to find out as to whether the applicant herein was in touch with the accused persons and the location of the present applicant. In addition, he would urge that the applicant herein had not absconded during the investigation and rather was very much present on duty. The applicant being a public servant shall co-operate with the investigation and neither there are attributions in the first information report that he has absconded, nor any steps against him are taken being an absconding accused. According to him, his apprehension for moving the present application is that, after filing the charge-sheet, there are certain movements against him by the rivals, so as to entangle him in the crime in question. Thus, he prayed to enlarge the applicant on pre-arrest bail.

7. While opposing the application, learned Addl. Public Prosecutor has invited my attention to the statements of various witnesses, recorded during the investigation, so as to submit that the applicant is *prima facie* involved in the crime in question. Amongst other, he has invited my attention to the statement of Sakhubai, which was recorded on 13th June, 2015 as against the incident which took place on 1st June, 2015, wherein the attribution against the present applicant was use of sickle, by which he had hit the son of said Sakhubai, namely, Shivanand.

(3)

8. Apart from above, learned Addl. Public Prosecutor was called upon to demonstrate from the record, i.e. charge-sheet, as to the involvement of the present applicant in commission of the crime in question.

9. It is then noted that a supplementary statement of the complainant Ganesh was recorded on 13th June, 2015, wherein he had specifically named the present applicant, however, the said statement is conspicuously absent as to the source of information about the details of the present applicant, which are not mentioned in the F.I.R.

10. The fact remains that, as stated herein above, there are improvements in the supplementary statement of the complainant and the complaint *qua* the present applicant, as his name is not narrated therein. Apart therefrom, it is also required to be taken note of the fact that the charge-sheet in the matter is already filed. Learned Sessions Court has released Shankarappa and the wife of Shivanand on regular and pre-arrest bail, respectively; whereas this Court has already granted bail to Mankarnabai and Pratibha w/o Gajanan.

11. The fact that neither the applicant was interrogated nor was he called for investigation by the Investigating Officer, particularly in the light of having ascertained his location from his mobile phone and his posting at the police headquarters, i.e. in the office of the Superintendent of Police, Hingoli, speaks about his non-involvement in the crime in question.

Apart from above, it is reported that all the members of Satbhai family including a minor, are named as an accused with sweeping allegations.

12. In the light of above and the applicant being a public servant, there is no likelihood of his fleeing from justice and, therefore, in my opinion, it will be appropriate to enlarge the applicant on pre-arrest bail. I, therefore, pass following order :-

(4)

In the event of arrest of the applicant, in connection with C.R. No.70 of 2015, registered with Kalamnuri police station, Tq. Kalamnuri, Dist. Hingoli, for offences punishable under sections 302, 307, 120-B, 143, 147, 148 and 149 of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

The applicant shall attend the concerned police station initially for three days, between 10.00 a.m. and 11.00 a.m. and thereafter as and when called by the Investigating Officer and shall co-operate with him.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj