

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.67 OF 2015

Sanjay Bhairu Kadam ... Applicant

Vs.

The State of Maharashtra ... Respondent

a/w

ANTICIPATORY BAIL APPLICATION NO.159 OF 2015

Raosaheb @ Rahu Dattu Kadam ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.J.D. Mane for the Applicants in both the ABAs
Mr.J.H. Ramugade, APP, for Respondent – State
Mr.V.V. Purwant for Complainant

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: APRIL 8, 2015

P.C.:

1. These two Anticipatory Bail Applications are decided by this common order as the two applicants are involved in the same offence and are facing the same charges. They are prosecuted for the offences punishable under sections 302, 307, 143, 147, 148, 149 in C.R. No.194 of 2014 at Tembhurni police station, Solapur.

2. One Pandurang P. Dhavle had given information to the police that on 18.9.2014 at around 1pm when he alongwith his nephew, Sandeep Kadam, who is the deceased, Sachin Kadam and Balaji Kadam were proceeding to village Akumbe on motor cycle on the Pune Solapur highway, one pick up van came speedily and dashed the motor cycle of Sandeep. Both Balaji and Sandeep fell down. Suddenly, 7 persons alighted from the pick up van. They were armed with weapons like Tomy Sattur and iron rods. 5 of them followed Sandeep who started running and two persons came near Balaji. They assaulted Balaji. The other persons assaulted Sandeep. He fell down. They also assaulted Sachin. He thereafter gave information to the police.

3. The learned Counsel for the applicants/accused has submitted that there is no offence committed by the applicants. The information is the outcome of a political rivalry between two groups in the village Akumbe. The group of the informant and the group of the applicants/accused are always hostile due to political rivalry and there are cases and counter cases filed against each other. He submitted that the alleged eye witness Sachin knew Sanjay Kadam, who is the applicant in Anticipatory Bail Application No.67 of 2015. However, his name was not taken by Sachin in his statement, which was recorded on 18.9.2014. His supplementary statement was recorded later. However, he did not take his name but has mentioned that there were 2 unknown persons and he could identify 5

assailants. He further submitted the name of Sanjay Kadam is taken by Balaji in his statement recorded on 17.10.2014 i.e., a month after the incident. He submitted that the involvement of Sanjay Kadam is false and the witnesses have deliberately taken the name of Sanjay though he has not committed any crime. While arguing the application of Raosaheb @ Rau Dattu Kadam, he submitted that Raosaheb was not present at the time of the incident. He was admitted on 17.9.2014 in a government hospital at Jat, District Sangli, which is far away from Akumbe, District Solapur, where he was kept under observation for 24 hours from 17.9.2014 and the incident has taken place on 18.9.2014. He is definitely not present at the time of commission of the offence and he is falsely implicated by the eye witnesses.

4. The learned Prosecutor and the learned Counsel for the intervener – complainant have opposed the application. The learned Prosecutor submitted that Balaji was badly injured and he was unconscious nearly for 16 days in the hospital. He had sustained injuries. The learned Prosecutor further submitted that the deceased had sustained multiple injuries and he died due to head injuries. He relied on the statements of the eye witnesses. It is further submitted that the distance between Jat in Sangli and Akumbe is 149 kms. which can be covered within 2 to 3 hours.

5. Perused the statement of the eye witnesses, Pandurang Dhavale, Balaji and Sachin. The name of Sanjay Kadam is not taken by Dhavale and by Sachin in their statements. However, it was mentioned that there were two unknown persons alongwith 5 assailants. In the statement of Balaji, he has taken the name of Sanjay and specifically attributed a role to him. In the statement of Pandurang Dhavale and Sachin, who are the eye witnesses, name of Raosaheb is mentioned as an assailant and a role is attributed to him. Also perused post mortem notes of Sandeep and the injury certificates of Balaji and Sachin. They had sustained injuries. Balaji was unconscious for 16 days. There is a medical certificate of Raosaheb disclosing that he was admitted in the government hospital on 17.9.2014 and was under observation for 24 hours. However, there is no specific timing as such and this defence of alibi can be put to test at the time of hearing of bail or the trial. There were multiple injuries.

6. In these circumstances, I do not think it is a fit case of grant of pre-arrest bail. Hence, the Anticipatory Bail Applications are rejected.

(MRS.MRIDULA BHATKAR, J.)