

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 391 OF 2015

Narendra Subhash Bhoir	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Subhash Hulyulkar, Advocate for the applicant.
Mr. D.P. Adsule, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **28th April, 2015**

P.C.:

This Application for pre-arrest bail are moved under section 438 of the Criminal Procedure Code, as the applicant/accused is facing charges of murder and conspiracy in C.R. No.119 of 2014, registered at Dehu Road police station, Pune (Rural), Pune. Two bail applications viz., Anticipatory Bail Application Nos.39 of 2015 (Jalinder Shinde) and 52 of 2015 (Vishal Tingre), are second bail applications as their first applications for pre-arrest bail were rejected by this Court on 1.7.2014 and 18.9.2014 respectively. The third bail application No.1535 of 2014 of Shri Kunal Landge is a first application for pre-arrest bail. However, his interim bail application was rejected by this Court on 6.8.2014, as his main application was to be decided by the Sessions Court on 24.8.2014. Then, the main application was decided by the Sessions Court and rejected. Thereafter, he filed Anticipatory Bail Application No.1397 of 2014 which was

withdrawn on 5.11.2014.

2. On 21.5.2014, in a hotel, namely, Hotel Shivneri at Dehu Road, Pune, all these applicants/accused alongwith the co-accused had dinner. At that time, they all were drunk. They picked up quarrel with the manager of the hotel, one Vinayak Shinde, and the waiter of the said hotel on account of payment of bill. They all assaulted the manager Vinayak Shinde. The applicant/accused Jalinder Shinde is an ex-Corporator and an influential person. It is the case of the prosecution that thereafter on 23.5.2014, some unknown persons arrived at the hotel on a motor cycle and Vinayak Shinde was shot dead. The incident was witnessed by some persons. It is the case of the prosecution that the assailants were hired on a contract killing by the accused No.1 and accused No.10 - Pradip Pawar and all the applicants/accused alongwith two principal accused hatched conspiracy to kill Vinayak Shinde as the 'honour' of Jalinder Shinde was hurt / offended / outraged / humiliated.

3. The learned counsel for the applicant/accused submitted that the role of Narendra Bhoir is different from other accused persons. He submitted that this applicant was present at the time when first assault took place. He is innocent. He was involved in any conspiracy of murder along with other accused persons. He further submitted that statement of Satish Nalawade was recorded nearly 2 ½ month after the incident and he

has filed affidavit in the writ that his statement was obtained by force by the police. He submitted that there is no offence against this applicant/accused. He submitted that he is on interim bail since last 6 months and he has been attending the police station regularly.

4. While making this submission, learned APP opposed this Application. He pointed out that the applications for interim bail and anticipatory bail were consistently rejected by the learned Sessions Judge. He relied on the statement of Satish Nalawade and also pointed out that in the FIR, name of applicant/accused is mentioned as he was present at the time of first assault and there are direct allegations made by the informant that applicant/accused was involved in the conspiracy of committing murder of the deceased.

5. Before dealing with the merits of the matter, I would like to bring some facts on record as pointed out by the learned APP. The learned APP pointed out that on 29th October, 2014 Anticipatory Bail Application No. 1376 of 2014 was made by the applicant/accused through Advocate Hali, Mr. Munde and Mr. Hulyalkar for interim pre-arrest bail and this Court gave finding that the Application for pre-arrest bail is still pending in the Court of Sessions, therefore, the said Application for interim bail was not maintainable and directed the applicant/accused to go before the Court of

Sessions with directions that the applicants to make an appropriate application under section 482 of Cr. P.C. Thereafter, on 30th October, 2014 in Anticipatory Bail Application No. 1387 of 2014, an order was passed and interim pre-arrest bail was granted to the applicant/accused and as pointed out by the learned APP because of this Application, the applicant/accused is on interim bail.

6. Be that as it may, on merit I have already rejected the Anticipatory Bail Applications of co-accused. The role of the applicant/accused is not less incriminating than the other accused. His name is taken in the FIR. He was present when the first assault took place. Besides, the informant has specifically made statement that the applicant was involved in the conspiracy and star witnesses Dattatray and Satish Nalavade has highlighted his role that he was present when the conspiracy was actually hatched. Under such circumstances, when the applicant/accused is facing charges of murder under section 302 of Indian Penal Code and conspiracy under section 120B, this is not a case to grant pre-arrest bail to the applicant/accused. Hence, the Application for anticipatory bail is rejected.

(MRS.MRIDULA BHATKAR, J.)