

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.72 OF 2016

Imran Irfan Khan and Another ... Applicants

vs.

The State of Maharashtra ... Respondent

Mr. Ashok Mundargi, senior Advocate a/w. Mr. Mohd. Umar Kazi, for the Applicants.

Ms. P.P. Shinde, APP for Respondent – State.

Mr. Nivrutti Kadam, Sr.PI., Anti Corruption Cell, Thane present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **1st APRIL, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicants/accused are facing charges for the offences punishable under Sections 302, 115 and 120(B) of the Indian Penal Code and under Sections 3, 25(1-B) of Arms Act and under Section 37(1) read with 135 of Bombay Police Act in C.R. No. I-622 of 2015 registered with Mahatma Phule Chowk police station, Kalyan, Dist. Thane. The offence is registered at the instance of police sub inspector Mr. Manojkumar Prajapati on 28th June, 2015.

2. It is the case of the prosecution that the police has received credible information that one Kunal Patil, the developer and builder has hatched conspiracy to kill his adversary Mahesh Patil. It is the case of the prosecution that Kunal Patil and Mahesh Patil have previous enmity and both have eliminated the associates from each others group. Police intercepted with the conversation of Kunal Patil and it was revealed that a contract was given to one Suraj Khan of Uttar Pradesh to kill Mahesh Patil and they are coming from Uttar Pradesh to kill Mahesh. It is the case of the prosecution that applicants/accused are the brothers of Suraj Khan and they are also involved as their phones are intercepted.

3. The learned senior counsel for the applicants/accused has submitted that the applicants/accused are innocent. They are falsely involved in this case. They have cooperated the police. The voice of applicant/accused No. 1 is already recorded by the police for verification. He submitted that there is no evidence against the applicants/accused constituting offence under Section 115 of the Indian Penal Code. He submitted that no specific role is given to the applicants/accused but there is general allegations that both the

applicants/accused were together with the principal accused.

4. The learned prosecutor while opposing the application submits that the offence was registered on 28th June, 2015. The conversation between the applicants is of dated 19th June, 2015 while the panchanama to that effect is drawn on 4th February, 2016. She further submitted that the offence was registered on 28th June, 2015 and prior to that the conversation has taken place between the applicants/accused and the main accused Kunal Patil. She submitted that applicant No. 1 Imran is known as Raja and police have intercepted the conversation. She relied on the transcript of the intercepted conversation which is proved under panchanama drawn on 4th February, 2016.

5. Perused the first information report, other relevant papers submissions of both the parties and the papers of the transcript of the intercepted conversation. The offence under Section 115 of Indian Penal Code is non bailable. The printout of the intercepted conversation does found found that the applicant/accused No. 1 had conversation with Kunal Patil and his brother Suraj Khan which *prima*

facie shows active participation of the applicants/accused in the preparation of plot of murder. Hence, applicant/accused No. 1 Imran cannot be granted pre arrest bail. However, there is no such evidence against applicant/accused No. 2. Hence, I am inclined to grant anticipatory bail to applicant/accused No. 2 only.

6. In view of the above, the pre arrest bail is granted to applicant/accused No. 2 Guddu on the following terms and conditions:

- a) In the event of arrest, the applicant/accused No. 2 Guddu Irfan Khan be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 30,000/- with one or two solvent sureties in the like amount;
- b) The applicant/accused No. 2 shall not tamper with the evidence;
- c) He shall cooperate with the Investigating Officer and shall attend concerned police station once in a week on every Monday between 6.00 pm to 7.00 pm. till filing of the charge-sheet.
- d) He shall not indulge in any criminal activity.

e) The anticipatory bail application in respect of applicant/accused No. 1 Imran Irfan Khan stands rejected.

(MRS.MRIDULA BHATKAR, J.)