

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.128 OF 2016

Bhushan Prakash Londhe ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Ashok Mundargi, Sr. Adv. a/w. Mr. Aniket Nikam, Adv. i/b.
Aashish Satpute, Adv. for the applicant.

Mr. D.P.Adsule, APP for the State.

Mr. Ramesh Dube-Patil, Adv. i/b. Jay & Co. for the intervener.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 27th January, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.0003 of 2016 registered at District Nashik Rural for offences punishable under Sections 201, 302 r/w.34 of IPC and under Section 3(25) of the Indian Arms Act.

2. The case of the prosecution in brief is that on 8th January, 2016 one Arjun Avhad and Nikhil Gavle were found dead at Torangad Ghat, Trimbakeshwar, Nashik. Pursuant to the FIR lodged by the uncle of the deceased Arjun, the aforesaid crime came to be registered. In the course of the investigation, the co-accused were arrested. The applicant herein was not named in the FIR and his name figured for first time in the remand application dated 18th

January, 2016. Apprehending that he would be arrested, the applicant had filed an anticipatory bail application before the Sessions Court, Nashik. Said application was dismissed by Additional Sessions Judge, Nashik vide order dated 20th January, 2016. Hence the present application.

3. Mr. Mundargi, the learned Sr. counsel for the applicant has submitted that there is no prima facie material to show the involvement of the applicant in committing the said crime. He has further submitted that the other co-accused were arrested and that the weapon of offence was recovered from the co-accused. He has further submitted that the prosecution had resisted the application on the ground that the applicant herein had given the weapon of offence to the co-accused, who was involved in committing murder of the deceased Arjun and Nikhil. He has submitted that the said weapon of offence was recovered soon after the arrest and till 18th January, 2016, the co-accused had not disclosed to the investigating agency that the applicant herein had given said weapon to him. Mr. Mundargi, the learned Sr. counsel has further submitted that though the prosecution has alleged that the car bearing No. MH-14-BF-1212, which was used for commission of offence belongs to the applicant.

The records reveal that the said car is registered in the name of one Jagtap. Mr. Mundargi, the learned Sr. counsel has submitted that there is no prima facie material to show that after attending the party at Picnic Point Hotel, the applicant herein was in company of the deceased. He has further submitted that the office of P.L. Group does not belong to the applicant herein and that it is of Buddh Vihar. Mr. Mundargi, the learned Sr. counsel therefore claims that there is no material on record to show the involvement of the applicant in commission of the said crime. He has further submitted that the applicant has been acquitted in 7 cases and only one case is pending for trial and as such the applicant could not be declined bail on the ground of criminal antecedents.

4. Mr. Adsule, the learned APP for the State has submitted that there is prima facie material to show that after the party at Picnic Point Hotel, the applicant and Nikhil were in the office of P.L. Group. Mr. Adsule, the learned APP has further submitted that, there is material on record to show that after the party at Picnic Point Hotel, the applicant herein and the deceased Arjun and Nikhil were together in the office of P.L. Group. He has further submitted that the statement of the friend of the deceased Nikhil shows that Nikhil had

called him to the office of P.L. Group. The material on record further reveals that the applicant herein had received the call and told the witness not to come to the office. The learned APP has further submitted that there is material on record to show that car which was in the name of Jagtap was actually purchased by one Ahire and that he had sold the same to the applicant. The learned APP has further submitted that the blood stains were detected in the said car. He, therefore, claims that apart from the statement of the co-accused there is other material on record to show the involvement of the applicant in commission of the said crime.

5. I have perused the record and considered the submissions advanced by Mr. Mundargi, the learned Sr. Counsel for the applicant and Mr. Adsule, the learned APP for the State. The records prima facie indicates that on 8th January, 2016 the bodies of Nikhil and Arjun were found at Torangad Ghat, Trimbakeshwar, Nashik. The bodies were sent for post mortem. The PM report indicates that the death of Arjun & Nikhil was due to Cranio Cerebral damage due to projective of firearm.

6. The FIR lodged by Kiran Avhad, the uncle of Arjun reveals

that Arjun and Nikhil had attended a party at Picnic Point Hotel and that he had contacted the applicant and told him that Arjun and Nikhil had not returned home. The FIR indicates that the applicant had told him that there was a quarrel between Arjun and one prince. When the complainant had told him that he wanted to meet Prince, the applicant had informed him that he had sent all the boys at Balaji. The FIR further reveals that since about 1½ month prior to the incident, Arjun and Nikhil were staying in the office of P.L. Group.

7. The statement of one of the friends of the deceased Nikhil reveals that during the intervening night of 31st December, 2015 and 1st January, 2016 at about 12.15 am, further reveals that at about 3 am he received missed call from Nikhil and when he had phoned Nikhil, he told him that he was in the office of P.L. Group and requested him to come to P.L. Group office and pick him up. While he was on his way to the office he called Nikhil and said Nikhil appeared to be frightened. Thereafter some other person picked up the phone and identified himself as Bhushan (the applicant herein). The witness has stated that when he told the applicant to give the phone to Nikhil, the applicant told him that Nikhil was quarreling with other persons and instructed him not to come to the P.L. Group

office and disconnected the phone. The witness once again called Nikhil. The applicant again picked up the phone and told the witness to go home.

8. The statements of some of the witnesses prima facie reveal that the applicant along with deceased and the some other boys were having a party at Picnic Point Hotel. His statement further indicates that there was a scuffle between Prince Sing, Vatan Pawar and the deceased. The statement of this witness further reveals that the party was over by 2 am and that thereafter the applicant along with the deceased Arjun and Nikhil had proceeded to Satpur. The statement of this witness further reveals that he too had proceeded to office of P.L. Group at Satpur. His statement further indicates that the deceased as well as the applicant herein were in the said office and that the applicant had told him to return home. Thus the material on record prima facie reveals that after the party at Picnic Point Hotel, the applicant as well as the deceased Nikhil and Arjun were in the office of P.L. Group at Satpur till about morning hours of 1st January, 2016.

9. The records prima facie reveal that the Ford Endeavour

MH-14-BF-1212 was attached on 10th January, 2016. Said panchnama reveals that some blood stains were found in said car. Said car was registered in the name of Jagtap. The statement of Jagtap prima facie reveals that the said car was in fact purchased by Sahebrao Ahire and that vehicle was registered in his name and Ahire since unable to take loan in his name. The statement of Ahire also reveals that the said car was purchased by him in the name of Jagtap. The statement of Ahire further reveals that subsequently he had sold the said car to the applicant and that the applicant was using the same. The material on record prima facie reveals that the said car was used by the applicant and the blood stains were found in the said car.

10. The aforesaid circumstances prima facie show the involvement of the applicant in commission of the said crime. The offence is of serious nature and the investigation is at preliminary stage. Considering the above facts and circumstances, the applicant is not entitled for anticipatory bail.

11. Under the circumstances and in view of the discussion supra the application is hereby dismissed.

(ANUJA PRABHUDESSAI, J.)