

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.211 OF 2016

SUNIL ASHOK DHANVE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Shri K.S.Labana, Advocate for the Applicant.

Shri H.J.Dedhia, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 20th JUNE 2016.

P.C. :

1 This application is filed for anticipatory bail by applicant Sunil Dhanve involved in Crime No.1-266 of 2015 registered with Bazzarpeth Police Station for the offences punishable under Sections 302, 307 read with Section 34 of the IPC and Sections 37(1) and 135 of Maharashtra Police Act.

2 Learned counsel for the applicant contended that investigation is complete and charge-sheet is already filed and as

such, there is no necessity for custodial interrogation of applicant. He has further made an attempt to establish that the knife alleged to be possessed by applicant at the time of incident is already seized from the spot and as such, there is also no need of applicant for the purpose of recovery of knife. Applicant's counsel has further referred to FIR I-267 of 2015 registered in the night intervening 21st September 2015 and 22nd September 2015 lodged by Mayur, son of applicant, on the basis of which, offence punishable under Sections 307 read with 34 of the IPC is registered against Vinod Patil, Hemant Patil, Vijay Bhoir and Gurubaba and has submitted that the incident out of which present application is arising occurred at one and the same place wherein both side parties were involved and an offence as aforesaid came to be registered. He, therefore, contended that documents in Crime No.267 of 2015 since do not establish that applicant has assaulted deceased Vinod, but was assaulted by Mayur i.e. son of applicant, claims that application be allowed.

3 On perusal of report lodged by Hemant Patil dated 22nd September 2015, involvement of applicant is clearly established wherein he has stated that in the night of 21st September 2015, at about 7 pm, applicant after reaching Ahilyabai Chowk, took his brother deceased Vinod for consuming liquor and after consuming the same, at around 11 pm, applicant alone came in front of their house in search of Vinod and was abusing him. Complainant has further stated that applicant then enquired from him about Vinod saying that he would not leave him and started search of Vinod. In this background, complainant Hemant apprehending assault on Vinod also arrived at Ahilyabai Chowk where at about 1.30 am he saw that applicant along with his son Mayur were assaulting Vinod by knife and when complainant intervened, he too was subjected to assault by knife, due to which he sustained bleeding injuries and therefore went home and called his mother and wife. On his reaching back on the spot, they all found Vinod lying on the spot having grievous injuries on his neck, who according to case of prosecution, succumbed to injuries while in hospital.

4 Contents of report as aforesaid, which appears to have been lodged immediately after the incident finds substantiated from the statements of Sanjod and Ashish, the eye witnesses, wherein they have stated that applicant and his son Mayur, on reaching to the spot, initially manhandled the deceased by fist blows and kick blows and thereafter assaulted him by knife and on seeing such assault, complainant ran to his house to call his mother and wife. Above statements of eye witnesses further find corroborated from the Postmortem report wherein deceased is certified to have sustained as many as 14 incised wounds on his person and on his neck, which are stated to be anti-mortem and the cause of death is said to be due to hemorrhagic shock due to incised stab injuries on the left side of the neck.

5 Learned counsel for the applicant has submitted that there was no intention or motive on behalf of applicant to commit assault and has also contended that he was even not armed with knife and for this purpose he has invited my attention to the

statements of Gurunath and Vijay Bhoir in Crime No.267 of 2015 registered for offence punishable under Section 307 of IPC.

6 From the statements of both these witnesses, however, presence of applicant is established on the spot. Moreover, fact of applicant having intention or motive etc. cannot be evaluated at this stage, in the absence of evidence, whatsoever, may come on record at the time of trial.

7 Having considered the evidence, applicant's involvement is clearly established in the present matter. Application is therefore liable to be rejected.

8 Criminal Application No.211 of 2016 stands rejected.

(P N. DESHMUKH, J.)