

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 218 OF 2016

A/W.

CRIMINAL APPLICATION NO. 111 OF 2016

IN

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 218 OF 2016

Daulat Balaram Gharat

..Applicant

v/s.

The State of Maharashtra.

..Respondents

Mr. A.P.Mundargi i/b. Shraddha Sawant for the Applicant

Mr. J.H.Ramugade, APP for the Respondent-State.

Mr. Nitin Sejpai a/w. Mrs. Pooja Sejpai for the Intervenor.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : FEBRUARY 11, 2016.

P.C.

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.12 of 2016 registered with Uran Police Station, Navi Mumbai, for offences punishable under Section 143, 147, 148, 149, 323, 326, 307, 504, 506 of the

Indian Penal Code and Section 25 and 3 of the Arms Act. The case of the prosecution in brief is that on 13.1.2016 the applicant and the other co-accused formed an unlawful assembly, armed with deadly weapons and they inflicted injuries on the complainant Rahul Kadu and others and further attempted to commit their murder by means of revolver. The crime was registered pursuant to the FIR lodged by Rahul Kadu. Apprehending his arrest in the said crime, the applicant had filed application for anticipatory bail before the Sessions Court at Raigad, Alibag. The said application came to be dismissed by the Addl. Sessions Judge Raigad, Alibag by order dated 29.01.2016.

2. Heard Shri Mundargi, the learned Senior Counsel for the applicant. He has submitted that the uncle of the applicant is working at the post office at Uran and that on the same day the applicant had visited the post office and that there was altercation between the complainant and the niece of the applicant and the other employees of the post office at JNPT Post, Uran. He submitted that pursuant to the said incident, the senior clerk of the post office

had lodged FIR against the complainant for offences under Section 323, 324, 147, 148, 149 of IPC. Learned Counsel Shri Mundargi has further submitted that subsequently the niece of the applicant was admitted in the Municipal Hospital at Uran. The applicant had visited his niece in the said hospital. He has submitted that the complainant and other persons who had accompanied the complainant had assaulted the applicant and others who were present along with them. He has stated that both the parties had lodged complaints and cross complainants against each other. Learned Senior Counsel for the applicant has further submitted that the injuries sustained by the complainant and his associates are simple in nature. There is no prima facie material to show that the applicant has fired the revolver and subsequently there is no material on record to indicate that the applicant has fired the revolver. The applicant is therefore entitled for bail.

3. Mr.Sejpal, the learned Counsel for the intervenor has submitted that the applicant herein had earlier filed an application for anticipatory bail before the Sessions Court at Alibag and the same

was withdrawn and fresh application was filed within two days thereafter. He has further stated that the complaint filed by the applicant is after thought and that the applicant had got himself admitted in the hospital for a period of 20 days. He has submitted that the conduct of the applicant does not justify grant of bail. He has further submitted that the applicant is involved in committing serious offence and that the nature of the offence also does not justify grant of bail.

4. Heard learned APP for the State. He has submitted that the FIR prima facie discloses that the applicant herein was armed with a revolver and had tried to fire a gun shot at the complainant and other persons present with him. The learned APP submits that the said act of the applicant is sufficient to attract the provisions of Section 307 of IPC. The learned APP therefore submits that the applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned

counsel for the intervenor and the learned APP for the respondent state.

6. The records prima facie reveal that one Kranti, niece of the applicant herein is employed at the JNPT Post Office, Uran. The records reveal that the applicant herein had visited the said post office on 13.1.2016 and that there was an altercation between the complainant and the niece of the applicant and the other employees of the post office which led to filing of FIR and consequent registration of crime against the complainant, being Cr. No.02/2016 for offence under Section 353, 354 of IPC.

7. The material on record prima facie reveals that said Kranti was admitted in the hospital and that the applicant herein had visited her in the said hospital. The FIR lodged by the complainant also prima facie indicates that there was scuffle/quarrel between him, Ajay Thakur, the nephew of the applicant and two-three others had accompanied said Ajay Thakur. The records prima facie reveal that the complainant and his associates had visited the Municipal hospital

at Uran wherein the niece of the applicant was admitted. The records reveal that there was a quarrel between the applicant and his associates on one side and the complainant and the other members who had accompanied him. In the course of the said scuffle both the parties have sustained injuries and have lodged complaints and cross complaints against each other.

8. It is to be noted that the FIR does not indicate that the applicant herein had fired the gun shot. The allegations in the FIR are that Ajay Thakur had removed the revolver from the hands of the applicant and had fired at the complainant and the others. The scene of offence panchanama does not prima facie indicate that such empties were found at the scene of offence. Thus, prima facie there is no material to indicate that the applicant or his nephew had fired the gun shot. The injuries sustained by the complainant and others are simple in nature. Furthermore, the applicant has already handed over the revolver to the Investigating Officer.

9. The applicant is a permanent resident of Raigad District. There

are no chances of the applicant absconding or thwarting the course of justice. Considering all the above facts and circumstances, in my considered view, this is not a case which would justify custodial interrogation.

10. In view of the discussion supra, the application is allowed on the following terms and conditions.

- i) In the event of arrest of the applicant in Crime No.12 of 2016 registered with Uran Police Station, Navi Mumbai, the applicant be released on bail on furnishing bail bond of Rs.25000/- (Rupees Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned Addl Sessions Judge, Raigad, Alibag.
- ii) The applicant shall report to the Investigating Officer for 7 days between 10 a.m. to 1.p.m. from the date of receipt of this order, and further as when required by the Investigating Officer for the purpose of investigation and interrogation.

iii) The applicant shall not interfere with the complainant or any other witnesses in any manner.

iv) The applicant shall not leave Raigad district till the filing of the chargesheet before the Sessions Court, Raigad, Alibag.

. In view of disposal of the anticipatory bail application, APPP/111/2016 does not survive and the same is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)