

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO. 543 OF 2016
WITH
CRIMINAL APPLICATION NO. 285 OF 2016**

- | | | | |
|----|--------------------------|-----|----------------------|
| 1. | Sou. Asha Pradip Gavit | | |
| 2. | Vilas Vasant Valvi | | |
| 3. | Dashrath Panga Bamania | ... | Applicants |
| | Vs. | | |
| | The State of Maharashtra | ... | Respondent |
| | And | | |
| | Mahesh Laxman Chaudhary | ... | Applicant/Intervener |

Mr. Shekhar A. Ingawale, Advocate for the applicants.

Mrs. S.S. Kaushik, APP for the State.

Mr. S.V. Chaugule, Advocate for the Intervener.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 4th April, 2016.

P.C.:

Criminal Application No. 285 of 2016 is moved by the original complainant for intervention and the same is allowed.

2. Criminal Application No. 543 of 2016 is moved for pre-arrest bail, as the applicants/ accused are facing prosecution under section 120B, 302, 395,396, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under section 37(1)(3) and 135 of Bombay Police Act in C.R. No. I-43 of 2014 registered with Vangaon Police Station, Palghar.

3. One Mr. Mahesh @ Ravi Laxman Choudhary gave information to the

police on 31st October, 2014 that he was having enmity with some Adivasi people who are residents of his village on account of the land. He was in prison because of the false cases filed against him. It is his case that on 31st October, 2014 nearly 21 persons including applicants/accused arrived in his house. They were armed with weapons like chopper, sickle etc. They assaulted his son Mayur, who died in the attack and therefore, he gave complaint and the offence is registered immediately on 31st October, 2014.

4. The learned counsel for the applicants/accused submitted that he has moved this Application on the ground of parity, as this Court by an order dated 5th January, 2016 has allowed Anticipatory Bail Application No. 1899 of 2015 filed by Dr. Sunil Balkrishna Parhad. The learned counsel submitted that the applicants/accused were not armed with weapons. They are not given any role of assault of Mayur.

5. Learned APP opposed this Application. She submitted that it is a case under section 302. Applicant nos. 2 and 3 have criminal antecedents under section 145, 146, 147 of the Indian Penal Code and hence, no pre-arrest bail be granted.

6. Though it is a case under section 302, the offence is registered on

31st October, 2014 against these applicants/accused. However, till today these applicants/accused are not arrested by the Investigating officer. No steps are taken against them if at all they are declared absconding. On perusal of the FIR and other witnesses, it appears that though the names of all the three applicants/accused are appearing in the FIR and the statements of eye witnesses, no specific role of assault is attributed to them. Considering the order passed by my predecessor, I grant pre-arrest bail to the applicants/accused on the following terms:

ORDER

- i) In the event of arrest, the applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- each with one or two solvent sureties in the like amount.
- ii) The applicants-accused shall not tamper with the evidence or pressurize the complainant;
- iii) The applicants-accused shall not indulge into any criminal activity;
- iv) The applicants-accused shall not abscond or leave India without prior permission of the Court.
- v) The applicants shall cooperate with the Investigating Officer and attend the concerned police station as and when called by the Investigating officer.

vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

7. Anticipatory Bail Application is disposed of on above terms.

(MRIDULA BHATKAR, J.)