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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1111 OF 2016

Shivaji Eknath Pawar	..Applicant.
V/s.	
State of Maharashtra	..Respondent.

Mr.Vinay J. Bhanushali for the applicant.

Mr.Deepak Thakery, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 22ND JULY, 2016

P.C. :-

1. The applicant / accused in Crime No.59/2016 for the offences punishable under section 307, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code and under sections 3(1)(r)(s) and 3(2) (va) and 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered with Satara Taluka Police Station, District Satara by this application is seeking anticipatory bail.

2. Heard the learned counsel for the applicant. By drawing my attention to the F.I.R. lodged by the injured, he

has argued that the applicant is not named as accused in the F.I.R. The learned counsel further argued that the applicant is not named as the assailant or as the person present on the spot by eye witnesses Deepak Kamble and Shailesh Kamble whose presence on the spot is reflected from the F.I.R. It is argued that Haridas - another injured witness, who is the brother of the informant, on 9th March, 2016 had stated to police the mere presence of the applicant on the spot without attributing any role to him.

3. The learned APP opposed the application by arguing that there are eye witnesses who are stating about the overt act on the part of the present applicant. My attention is drawn to the statement of witnesses Navnath Pawar, Pradip Pawar and Sou. Sunita Pawar.

4. Perused the F.I.R. In column No.7 of the F.I.R. name of the present applicant is not mentioned. The incident allegedly occurred on 18th February, 2016. The F.I.R. is lodged instantaneously. Informant Ankush Londhe is injured in the incident. Another injured Haridas is his real brother. In the F.I.R. the informant described the assault on him as well as

assault on his brother Haridas in the same incident. The names of author of injuries is also stated in the F.I.R. by injured Ankush Londhe. This F.I.R. is conspicuously silent about the presence of the present applicant on the spot.

5. Injured Haridas in his statement dated 9th March, 2016 has stated that applicant Shivaji Eknath Pawar was present on the spot. Subsequently, he described the mode and manner in which he and his brother i.e. informant Ankush came to be assaulted by accused persons. Injured Haridas has not attributed any overt act to the present applicant Shivaji Eknath Pawar.

6. The F.I.R. reveals that Deepak Kamble and Shailesh Kamble are eye witnesses to the incident. They are not stating even about presence of the present applicant on the spot.

7. Perusal of the charge-sheet shows that the prosecuting party and accused were on hostile terms. In this backdrop, naming the applicant as one of the assailant by three witnesses on the backdrop of not naming the applicant in the F.I.R. by the informant as well as not attributing any role

to him in the assault by injured Haridas assumes significance.

8. Perusal of the charge-sheet goes to show that prima facie case for the offence punishable under sections 3(1)(r)(s) and 3(2) (va) and 6 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is not made out. Custodial interrogation of the present applicant in such circumstances and that too after the filing of the charge-sheet is not warranted. Hence the order :-

- (i) The application is allowed;
- (ii) Ad-interim anticipatory bail granted on 4th July, 2016 is confirmed on the same terms and conditions;
- (iii) The application is disposed of accordingly.

(A.M.BADAR, J.)