

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1305 OF 2016

1. Nikhil Sanjay Vahile	)	
2. Omkar Balu Shinde	)..	Applicants
vs.		
The State of maharashtra	...	Respondent

Mr. Anand S. Patil, Advocate for the applicants.

Mr. Prashant Jadhav, APP, for the State.

Shri Ganesh Lokare, API, Vadgaon Maval Police Station, present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 1st September, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicants herein are apprehending their arrest in Crime No.25 of 2016 registered at Vadgaon Maval Police Station, Dist. Pune, under Section 302 read with Section 34 of the Indian Penal Code.

2. On 28.2.2016, Amar Nimje lodged a report at the police station alleging therein that his brother Rajat had been to Kanifnath Temple and was chit-chatting along with his friends. At about 8 p.m. he received a phone call from his brother Shiva informing him that there has been a quarrel between Rajat and some others and Rajat had sustained grievous injuries to his head. Thereafter, Rajat was taken to Pioneer Hospital, where he was declared dead. According to the complainant, two years prior to the

incident, Rajat had quarreled with Sagar Vahile and Darshan and therefore, according to them, on 27.2.2016, Sagar and Darshan along with others had caused homicidal death of Rajat.

3. It appears that Sagar and Darshan have been arrested and are in custody. The investigation is completed and charge-sheet is filed.

4. As far as the present applicants are concerned, their names do not appear in the first information report. That on 3.3.2016, the memorandum of accused Sanket Vabale was recorded. In the said memorandum, he has disclosed that the weapons used for assault were concealed by the present applicants. Similarly, the memorandum of accused Nikhil was recorded under Section 27 of the Evidence Act and he has made similar allegations. At this stage, the memorandum of the accused recorded under Section 27 of the Evidence Act cannot be considered. In any case, it appears that the role attributed to the applicants would attract an offence punishable under Section 201 of IPC. Charge Sheet is also filed. The weapons are already recovered at the instance of the co-accused. Hence, in the given circumstances, custodial interrogation would not be imperative.

5. It is made clear that the observations made hereinabove are prima facie in nature and shall not be considered for the purpose of

quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicants shall report to the Vadgaon Maval Police Station, Dist. Pune on four consecutive Fridays commencing from 2.9.2016 between 10 a.m. to 12 noon and co-operate with the investigating agency to the best of their capacity.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)