

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1879 OF 2015

Pratik @ Banti Mauli Tope ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Ms. Sharon Patole i/b. Satyavrat Joshi for the Applicant
Mrs.G.P.Mulekar, APP for the Respondent-State.

**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.340 of 2015 registered with Chakan Police Station, Pune Rural, for offences punishable under Sections 143, 147, 302, 201 r/w. 149 of the Indian Penal Code.
2. The case of the prosecution in brief is that on 28.6.2015, the applicant along with the other co-accused had formed an unlawful assembly armed with deadly weapons and had committed murder of

one Ashok @ Gotya. The said crime was registered pursuant to the FIR lodged by Dnyaneshwar Vishnu Argade. Apprehending his arrest the applicant herein had filed application for anticipatory bail before the Sessions Court, Khed, Rajguru Nagar. The said application came to be dismissed by the learned Addl. Sessions Judge, Khed, by order dated 4.11.2015. Hence the present application.

3. The learned Counsel for the applicant has submitted that the applicant is not named in the FIR. She has further stated that apart from the CDR records there is no material, either direct or circumstantial, to link the applicant with the crime. She has stated that the CDR per say would not indicate the involvement of the applicant in the said crime. She has stated that considering the nature of the allegations leveled against the applicant, his presence is not required for the custodial interrogation.

4. The learned APP has submitted that the statement of the co-accused prima facie reveals the involvement of the applicant. She

has further stated that the CDR record also shows the presence of the applicant in the vicinity of the place of incident. She has submitted that the call records also prima facie indicate that the applicant was in contact with the co-accused Ganesh Savle. She therefore claims that the aforesaid circumstances prima facie indicate the involvement of the applicant in commission of the said crime which is of serious nature and that the presence of the applicant is necessary for custodial interrogation.

5. I have perused the record and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The FIR lodged by Dnyaneshwar prima facie reveals that the deceased Ashok @ Gotya had left the house on 28.6.2015 and that there was a quarrel between his nephew Ashok @ Gotya and some other college students and that the said students had gathered near Dham junction to assault Gotya. Subsequently, the body of Ashok @ Gotya was found in a well which is behind Santosh Nagar Gram Panchayat. The body was retrieved and sent for post-mortem. The post-mortem report reveals that there were several

injuries on the body of said Ashok@ Gotya and the doctor has certified that the death was due to haemorraegic shock due to head injury. The material on record therefore prima facie reveals that the death of said Ashok @ Gotya was homicidal.

6. The statement of the witnesses prima facie reveal that there was quarrel between Ashok @ Gotya and some other college students from the locality and that the said students including some of the co-accused had threatened to cause death of said Ashok@ Gotya. The material on record indicates that about 20-25 students, including some of the juveniles had gathered in order to assault said Ashok@ Gotya. The material on record does not prima facie indicate that the applicant was present along with the said students. The only material against the applicant is that he had made phone calls to one of the co-accused by name Ganesh Savle. The CDR records indicate that said Ganesh Savle and the applicant herein were in contact with each other even prior to the incident. It is true that the CDR records prima facie indicate that on the relevant date the applicant was present in the vicinity of the place of the incident. This fact at the

most raises suspicion about the involvement of the applicant. However, the same per say would not be prima facie sufficient to link the applicant with the said crime.

7. The nature of the allegations leveled against the applicant, in my considered view do not justify custodial interrogation. The applicant is 20 years old student. He is permanent resident of Khed, Pune and he has no criminal antecedents.

8. Considering the above facts and circumstances, the applicant is entitled for bail. Hence the order.

i) In the event of arrest of the applicant in 340 of 2015 registered with Chakan Police Station, Pune Rural, the applicant be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount to the satisfaction of the learned JMFC, Khed, Pune.

ii) The applicant shall report to the Investigating Officer for seven 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 and the other witnesses in any manner.

iv) The applicant shall co-operate with the investigation in every possible manner.

v) The applicant shall not leave Pune district till filing of the chargesheet, without prior permission of the JMFC, Khed, Pune.

(ANUJA PRABHUDESSAI, J.)