

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 17 OF 2017

Sanjay Pandurang Surve	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. S.R. Pasbola i/b. Mr. Rahul Arote, Advocate for the applicant.

Mrs. N.S. Jain, APP for the State.

Ms. V.S. Ghorpade, Dy. S.P., State CID (Crime) present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **19th January, 2017.**

P.C.:

The Application is moved for pre-arrest bail under section 438 of Cr. P.C., as the applicant/accused, who was Senior Police Inspector of Central Police Station, Ulhasnagar on 11th April, 2011, is prosecuted for the offences punishable under section 307, 109 r/w. 34 of Indian Penal Code in C.R. No. 112 of 2012. The complaint is given by one Shantaram Namdev Borse, Deputy Superintendent of Police, State C.I.D., Navi Mumbai.

2. As per the case of the prosecution, deceased Sunil Shelke, his brother Yogesh Shelke along with two accused Pratap Amar Kukreja and Kuram Nasrulla Shaikh were put in custody on 11th April, 2011, as offence under section 151(1) of Cr. P.C. was registered against them. As per the complaint, between 8 pm to 9 p.m. all the four accused consumed food provided by the police and also a food brought by son of accused Kuram

Shaikh. Thereafter at around 10.30 p.m. deceased started vomiting, so he was treated. Thereafter he was brought back to the police station at 11 p.m. byt at about 2.10 a.m. on 12th April, 2011 deceased Sunil became restless and perspiring, so he was shifted to the Central Hospital, Ulhasnagar. However, at 3 a.m. he died due to poisoning. After postmortem, the said opinion was confirmed that he had unnatural death due to poisoning. Thereafter the applicant/accused, being the Senior Police Inspector of the said police station, was prosecuted.

3. The learned counsel for the applicant/accused submitted that this incident is of the year 2011. The applicant/accused is attending his duties and is not arrested.

4. Learned APP opposed the Application, however, she informed that police initially have registered the offence under section 302 of Indian Penal Code but now the offence is under section 307 of Indian Penal Code.

5. This FIR is of 27th April, 2012 and till today the charge sheet is not filed by the police. Prima facie no evidence is shown against the applicant/accused by the prosecution. On perusal of the complaint and other documents and considering the cause of offence, it appears that custody of the applicant/accused is not required. On query about the

marks on the body of deceased Sunil Shelke, I am informed that no injury marks were found. Hence, pre-arrest bail is granted to the applicant/accused on the following terms and conditions:

ORDER

- (i) In the event of arrest, the applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.20,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not tamper with the evidence.
- (iii) The applicant shall cooperate the Investigating officer.

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

(MRIDULA BHATKAR, J.)