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

ANTICIPTORY BAIL APPLICATION NO. 738 OF 2017

Deepchand s/o Kashmir Singh	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Jaideep Lele, for the Applicant.

Mr. Deepak Thakare, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 14th JUNE, 2017

P.C.

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 19 of 2017 registered with the Deolali Camp Police Station, Nashik, for the alleged offences punishable under Sections 306, 451, 500 r/w 34 of the Indian Penal Code and under Sections 3 and 7 of the Official Secrets Act, 1923.

3. The applicant-Deepchand Singh is stated to be a retired soldier and a War Veteran, who had lost his legs and an arm in a war. It is stated that the applicant was running a Canteen at the Deolali Camp, Nashik, at the relevant time.

4. This Court vide order dated 26th April, 2017, had granted interim protection to the applicant on certain conditions. The applicant was directed to report to the Investigating Officer of the concerned Police Station on 2nd, 3rd and 4th May, 2017 from 10:00 a.m. to 12:00 noon, and thereafter, as and when called for.

5. Learned APP states that the applicant has attended the concerned Police Station, as directed by this Court vide order dated 26th April, 2017.

6. It appears that on 7th February, 2017, a sting operation was conducted by Poonam Agarwal, a Journalist, along with the applicant-Deepchand Singh. The object of conducting the sting operation was to expose the malaise and practices followed by some of the superior officers

in the Indian Army, by misusing the Sahayak System.

7. Learned Counsel for the applicant submitted that co-accused – Poonam has conducted several sting operations which were in public interest and for the benefit of the Society and that this was one such sting operation. He submitted that the sting operation was conducted on 7th February, 2017 in a residential colony of Officers, wherein the Sahayaks were seen doing duties i.e. menial work, which were expressly prohibited in the Circular dated 19th January, 2017. The said operation was done with the help of the applicant. It appears that the said video which was taken, was put up by Poonam on the Quint Website, after blurring the faces of the Sahayaks, who had made disclosures, so as to conceal their identity. The Sahayaks were completely unaware that their responses to the questions were being video recorded. The video was put up on the Web News Portal 'The Quint', after which, the said video went viral. One Roy Mathew who was also interviewed in the said sting operation, committed suicide on 2nd March, 2017. Pursuant thereto, the aforesaid offence was registered as against the applicant and Poonam, on a complaint lodged by Nareshkumar Jatav, a colleague of the deceased-Roy Mathew.

8. Mr. Lele submitted that taking the prosecution case as it stands, no offence whatsoever, either under Section 306 of the Indian Penal Code or under the Official Secrets Act is disclosed *qua* the applicant. He submitted that it is in public interest that the said sting operation was done, to expose the malaise in the Indian Army. He submitted that the sting operation was done by Poonam and the video was also uploaded by her. He submitted that the applicant's statement has also been recorded by the police and that the applicant has co-operated with the investigation and hence, his custody is not required.

9. Perused the papers. It appears that on 7th February, 2017, a sting operation was conducted. It appears that the sting operation was conducted in a prohibited area and the clip was uploaded by Poonam, an Associate Editor of the Web News Portal "The Quint" on its website, after editing the said clip and after blurring the faces of the Sahayaks, who were interviewed [including Roy Mathew (deceased)]. I had seen the edited video clip uploaded on the website, in the presence of the learned Counsel for the applicants and the learned Public Prosecutor, in Chambers. It appears that the purpose of the sting operation was to show that Sahayaks

were made to do menial work, i.e. taking the dogs for a walk, taking the children to schools; driving the wives of the Officers to parlours, shopping, etc., contrary to the Circular dated 19th January, 2017. It appears from the statement of the complainant, that after the sting operation was done and after the said video went viral, the deceased-Roy Mathew felt that he and the Army were shamed and defamed and apprehended that he would be Court Martialled, pursuant to which, he took a drastic step and committed suicide. It also appears that two petitions have been filed in the Apex Court with regard to the aforesaid expose; one by Poonam and the other by the Welfare Association of Ex Army Aviation Technicians and both the said petitions are pending in the Apex Court. Infact, in one of the said petition, questions are raised and suspicion expressed, with regard to the death of Roy Mathew. Be that as it may, *prima facie*, at this stage, taking the prosecution case as it stands, it is doubtful whether any offence, either under Section 306 or 500 of the Indian Penal Code or under Sections 3 and 7 of the Official Secrets Act, is attracted, in the peculiar facts of this case. Merely because the sting operation was done in a prohibited area would not automatically attract the provisions of Sections 3 and 7 of the Official Secrets Act.

10. Considering the aforesaid, the custodial interrogation of the applicant is not required. The application is allowed and the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/-, with one or two sureties in the like amount ;

(ii) The applicant shall report to the Investigating Officer of the concerned Police Station, as and when called.

11. The Application is allowed in the aforesaid terms and is accordingly disposed of.

12. It is made clear that the observations made herein are *prima facie* and are confined to this application.

13. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.