

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

ANTICIPATORY BAIL APPLICATION NO.1866 OF 2016

Mahesh @ Maheshkumar Mahadeo Kamble ... Applicant

Vs.

The State of Maharashtra .. Respondent

Mr.Satyavrat Joshi for the Applicant

Mrs.Rutuja Ambekar, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 17, 2017

P.C. :

1. This is an application for pre-arrest bail as the applicant/accused is facing charges under sections 302, 324, 143, 147, 148, 149, 120B r/w section 109 of the Indian Penal Code. The incident of assault took place on 29.4.2016. One Vishal Laxman Kamble, the cousin brother of the deceased, Sudhir Arun Kamble, gave information to the police on 30.4.2016. It is the case of the prosecution that on 29.4.2016, he and the deceased Sudhir were proceeding on a motor cycle after attending their job. They were stopped near Vijayanagar village in Miraj taluka. They were attacked by three unknown persons. They asked them as to why

there were being assaulted, however, the three persons, who were armed with stumps and sticks, did not answer but they went away after they assaulted them. He took his brother Sudhir to hospital. Both of them were treated in the hospital. Sudhir succumbed to injuries on 1.5.2016. Vishal Kamble thereafter approached the police and the offence was registered at C.R. No.128 of 2016 with Miraj (Rural) Police Station initially for the offence under section 324 r/w section 34 of the Indian Penal Code. However, after the death of Sudhir, section 302 of the Indian Penal Code was added.

2. The learned Counsel for the applicant/accused has submitted that the applicant is innocent. He has not committed any offence. He has no role in the offence. The allegations made by the witnesses against the applicant/accused are false. He submitted that the witnesses who have stated against the accused did not come forward immediately after the incident of assault which took place on 29.4.2016 but their statements were recorded nearly 13 to 14 days thereafter. Moreover, he submitted that it was incomprehensible that the applicant/accused has contacted these witnesses or the assailants in a public place i.e., a hotel and has openly conspired to kill Sudhir and had created evidence against

himself. He further submitted that other 11 accused are released on bail. That factor is also to be considered.

3. Learned Prosecutor has opposed the application. She relied on the statements on the witnesses i.e., Popat Rama Kamble, Hussain Shaikh, Ashish Lokhande, Prabhakar Naik, etc., whose statements were recorded by the police on 6.5.2016. She submitted that all of them have stated that on 18.4.2016 in one hotel Ashwin, in the afternoon, the applicant/accused alongwith his brother Mayur and other persons arrived in the hotel and at that time, they heard the applicant/accused telling his associates loudly that he wanted to take revenge of the assault on his brother Mayur and that they beat him up and he would take care that the information about the names of the assailants would not reach the police. The learned Prosecutor has pointed out the statements of the wife of the deceased where she has stated that the nick name name of Sudhir is Bhiku and, therefore, Sudhir Kamble and Bhiku Kamble are one and the same person. She submitted that one case at C.R. No.5 of 2014 under sections 326, 324, 323 r/w section 34 of the Indian Penal Code registered at Miral (Rural) Police Station is pending against the applicant/accused.

4. Perused the complaint, so also the statements of the witnesses which are pointed out by the learned Prosecutor. In all the statements, it is specifically mentioned that the incident of assault on Mayur, the brother of the applicant/accused, has taken place on the day of birth anniversary of Dr.Babasaheb Ambedkar and the applicant/accused has expressed that he wanted to take revenge of this assault by eliminating Bhiku i.e., the deceased.

5. This is a case of murder and this application is moved for pre-arrest bail and there is *prima facie* material to show the involvement of the applicant/accused. In my view, custodial interrogation of the application is required and hence, the Anticipatory Bail Application is rejected.

6. The learned Counsel for the applicant/accused submits that the applicant/accused wants to challenge the order before the Supreme Court and, therefore, seeks some time. Learned Prosecutor has opposed the oral prayer. However, in view of the fact that earlier, interim bail was granted to the applicant/accused by this Court, the said interim bail is continued till 31st January, 2017.

7. Anticipatory Bail Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)