

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1968 OF 2017

SAYYAD NAVAB KHAN

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.N.K.Sharma, Advocate for the Applicant.

Ms.PPShinde, APP for the Respondent – State.

Mr.Jayawant Pawar, Police Inspector, Goregaon Police Station,
present in the court.

CORAM : A. M. BADAR, J.

DATE : 14th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.527 of 2017 registered with Goregoan Police Station, for offences punishable under Sections 323, 324, 326, 307, 143, 147, 148, 149 of the Indian Penal Code (IPC) and under Section 37 and 135 of the Maharashtra Police Act, by this application, is seeking pre-arrest bail.

2 Heard the learned advocate appearing for the applicant/accused as well as the learned APP appearing for the State. The learned APP opposed the application by contending that the present applicant/accused was a member of the unlawful assembly formed with a common object of committing murder of Mayur Panchal and in prosecution of that common object, by indulging in riot, Mayur Panchal was done to death.

3 Perusal of papers of investigation go to show that the incident in question of commission of murder of Mayur Panchal took place outside Royal Smoke Hukka Parlour at Goregaon. The First Informant Rasik Shaikh and his other friends including Mayur Panchal (since deceased) had been to said Hukka Parlour in the night intervening 21st and 22nd October 2017. They were dancing on the dance floor at 5.45 a.m. Other group comprising of 15 to 20 young boys was also on the dance floor and during the course of dancing, Mayur Panchal accidentally brushed another person in the group. Both groups created ruckus in the Hukka

Parlour. That caused the owner as well as employees of the Hukka Parlour to intervene. The present applicant/accused is seen to be one of the employees of the Hukka Parlour. The owner as well as employees of the Hukka Parlour had pushed the group of the First Informant and driven them out of the Hukka Parlour. It is seen from the FIR that outside the Hukka Parlour and precisely at S.V.Road, members of the prosecuting party again had a quarrel with the owner and staff of the Hukka Parlour.

4 The second part of the incident is to the effect that at that time, 15 to 20 members of the other group who had quarrel with the prosecuting party came out of the Hukka Parlour and started abusing and assaulting the members of the prosecuting party. In that process, one of the members of the rival gang whipped a knife and gave successive blows thereof on Mayur Panchal leading to his death.

5 The FIR as well as statement of witnesses cannot be construed to mean that the present applicant/accused, who was

an employee of the Hukka Parlour, was member of the unlawful assembly having common object of killing Mayur Panchal. What he had done is removing one of the quarreling groups outside the Hukka Parlour and then subsequently quarreled with that group.

6 Considering the nature of allegation against the present applicant/accused, his liberty needs to be protected, and therefore, the order :

ORDER

- i) The application is allowed.
- ii) In the event of arrest in Crime No.527 of 2017 registered with Goregoan Police Station, for offences punishable under Sections 323, 324, 326, 307, 143, 147, 148, 149 of the IPC and under Section 37 and 135 of the Maharashtra Police Act, the applicant / accused shall be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.
- iii) The applicant / accused shall not tamper with the prosecution evidence.

- iv) The applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- v) The applicant / accused shall attend the concerned Police Station on 17th November 2017, 22nd November 2017 and 24th November 2017, in between 11.00 a.m. and 1.00 p.m. and continue to attend the said Police Station on every second and fourth Monday of each calendar month, between 11.00 a.m. and 1.00 p.m., till filing of the charge-sheet.
- vi) The application is accordingly disposed of.

(A. M. BADAR, J.)