

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2142 OF 2017

NAMDEV SHANKAR DHUMAL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Ms.Sushma Mishra, Advocate for the Applicant.

Ms.PPShinde, APP for the Respondent – State.

Mr.S.S.Shinde, Head Constable, Murbad Police Station, present in the court.

CORAM : A. M. BADAR, J.

DATE : 8th DECEMBER 2017

P.C. :

1 The applicant/accused in Crime No.I-25 of 2017 registered with Police Station Murbad, Thane, for offences punishable under Sections 307, 326, 324, 323, 120B, 341, 141, 143, 147, 148, 149, 504, 427 of the Indian Penal Code (IPC) as well as under Section 25C of the Arms Act, by this application, is seeking his pre-arrest trial.

2 Heard the learned advocate appearing for the applicant/accused. She drew my attention to the First Information Report (FIR) lodged by Pandurang Dhumal and argued that the First Informant had a checkered history of crimes registered against him. It is further argued that the FIR shows that the applicant/accused had assaulted one of the injured named Devidas Dhumal on head by means of a *Koita* but the injury suffered by the alleged victim Devidas is not corresponding to the blow given by the present applicant/accused. The learned advocate further argued that this court is pleased to grant anticipatory bail to six of the accused persons in this crime vide order dated 16th June 2017 passed in Anticipatory Bail Application No. 909 of 2017. My attention is also drawn to the orders passed by the learned Additional Sessions Judge in Anticipatory Bail Application No.1004 of 2017 granting anticipatory bail to Kashinath Dhumal and Anticipatory Bail Application No.1299 of 2017 in respect of Raghunath Shingole.

3 The learned APP opposed the application by contending that role attributed to the applicant/accused in Anticipatory Bail Application No.909 of 2017 decided by this court is not at par with the role attributed to the present applicant/accused. She, further, pointed out that, co-accused Bhagwan Shingole's Anticipatory Bail Application bearing No.957 of 2017 is rejected by this court by an order dated 8th June 2017. The learned APP also drew my attention to the statement of injured Devidas Dhumal and his Medical Certificate.

4 I have carefully considered the rival submissions and also perused the papers of investigation including the FIR. The First Informant Pandurang Dhumal has averred that as he was attempting to impose ban on liquor in Village Korawle, he being the Chairman of the Committee constituted as per the policy of the State. It is further averred by the First Informant that accused persons are bootleggers and they had taken several meetings for assaulting the First Informant as well as all his relatives, who were attempting to impose liquor ban in the village. The First

Informant reported that on 11th February 2017 accused persons, who are stated to be 45 in number, assaulted the First Informant as well as his relatives by means of dangerous weapons.

5 So far as the present applicant/accused is concerned, the First Informant mentions that the applicant/accused has assaulted Devidas Dhumal. Statement of Devidas Dhumal shows that the present applicant/accused has assaulted him by means of *koita* on his head, whereas co-accused Yogesh Dhumal assaulted him by means of a sword. It is seen that, after initial treatment at Rural hospital, Mulund, injured Devidas Dhumal was referred to a higher center and he was treated at Sampada Hospital at Kalyan. The Medical Certificate shows that injured Devidas Dhumal has suffered fracture of zygomatic arch. It cannot be said that this injury was not on head and is not attributable to the blow by the present applicant/accused.

6 Considering the overt act attributed to the present applicant/accused and the corroborating evidence to substantiate

that claim, no case for pre-arrest bail is made out. Therefore the order :

ORDER

The application is rejected.

(A. M. BADAR, J.)