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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 633 OF 2018

Jaywant Rajaram Pawar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. M. S. Mohite a/w Akshay Kamble i/b Ajit Jaywant Kenjale, for
the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

Mr. Sable, ASI, Koregaon Police Stn., Solapur.

CORAM : P. N. DESHMUKH, J.

DATE : APRIL 24, 2018

PC :-

1. Heard learned counsel for Applicant and learned APP for Respondent-State. This application is for grant of anticipatory bail by one of the co-accused in C. R. No. 224/2018 registered with Koregaon Police Station on 22nd August, 2017 for offences punishable under Section 302, 326, 109, 216 read 120B, 34 of Indian Penal Code. Applicant is granted interim protection from arrest by order dated 3rd April, 2018 observing that in subsequent statement of complainant, he has absolved Applicant and further observing that in the charge-sheet

specific remark is made about Applicant that during the course of investigation no direct or indirect evidence was found against Applicant, and as such, Applicant was not charge sheeted. Applicant was initially protected from arrest by learned Sessions Judge, Satara, which was further extended after rejection of his application and during pendency of said application, interim protection was granted imposing condition on Applicant to attend Investigation Officer twice in a week preferably every Monday and Thursday between 11.00 a.m. to 4.00 p.m., which condition was, admittedly, complied by Applicant and during his presence with Investigating Officer has undergone narco analysis test, of which results are inconclusive.

2. On the earlier date, learned APP made statement that further investigation is in progress against Applicant. Statement is also made by learned APP that though investigation is complete due to pendency of present anticipatory bail application, supplementary charge-sheet against Applicant could not be filed. Learned APP has submitted that in that view of the matter, application be decided in either way. At the outset, it is material to note that pendency of this application can be no impediment for investigating agency to file

supplementary charge-sheet.

3. Application is therefore, heard. On the earlier date of hearing when Applicant was granted interim protection, from report lodged by Mandar Barge, it was found that when deceased was taken to hospital, oral statement was made involving Applicant as one of the conspirator of the act of assault on deceased. Subsequent statement of complainant, however, recorded on 25.8.2017 totally absolves Applicant. It was also considered that as per additional statement of complainant, prior to the incident, deceased has received phone on his cell, having number 8888998685 which on being verified from “True Caller” was found to be registered in the name of Pankaj Bhimrao Pawar, Police Constable, Akola. In the background of evidence as aforesaid against Applicant, he was protected by interim orders.

4. Today, during the course of hearing, except above facts, nothing more is stated to be collected against Applicant, and investigation is said to be complete and charge-sheet is required to be filed. In view of nature of evidence available as against Applicant, as aforesaid and as Applicant on sufficient number of times attended investigating officer, interim orders passed earlier needs to be

confirmed. Hence, following order:

- (i) Interim order dated 3rd April, 2018 stands confirmed on the same terms and conditions, with further direction to Applicant to attend Investigating Officer till filing of supplementary charge-sheet, if any, against him;
- (ii) Learned Trial Court shall not get influenced with any of the observations made hereinabove and shall independently evaluate evidence at the time of trial;
- (iii) Application is disposed of in the aforesaid terms.

Sd/-
[P. N. DESHMUKH, J.]

Vinayak Halemath