

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

**CRIMINAL ANTICIPATORY BAIL APPLICATION NO.310 OF 2018**

|                                     |               |
|-------------------------------------|---------------|
| Rajeshkumar @ Rajesh Suryakant Kale | ..Applicant   |
| vs.                                 |               |
| The State of Maharashtra            | ...Respondent |

----

Mr.Priyal G. Sarda for Applicant .  
Mr.Y.M. Nakhwa, APP for Respondent.

----

**CORAM : P. N. DESHMUKH, J.**  
**DATE : 3<sup>rd</sup> April, 2018**

**P.C.:**

.                   Heard Mr.Sarda, learned counsel for applicant and Mr.Nakhwa, learned APP for the State. Perused the case diary. This application is for grant of anticipatory bail by accused involved in C.R. No.33/2018 registered with Barshi Police Station for the offence punishable under section 399, 402 of IPC and under section 3(25) of Arms Act . Applicant is protected by interim order dated 20/2/2018.

2.               According to learned counsel for applicant no involvement of applicant is established from the entire report and on investigation charge-sheet is filed. Thus, therefore it is prayed that interim bail granted to applicant be confirmed.

3.               Learned APP submitted that applicant's involvement is revealed during interrogation of co-accused and on further referring to additional statement of complainant recorded 4 days after the report wherein it is stated that applicant is one amongst persons who ran away from the spot after alighting from the car and has therefore contended that in view of subsequent statement of complainant, application is liable to be rejected as

personal interrogation of applicant is necessary for the purpose of recovery of weapons.

4. Perusal of report reveals that on suspicion one car came to be intercepted in the night of 21/1/2018. On interception, three persons who were in the car ran away while two persons came to be apprehended on the spot. Applicant is admittedly not amongst those two persons. According to further report the persons who came to be apprehended were found having armed with country made revolver and car was found with one sword, two iron rods which came to be seized. In view of contents of report as aforesaid, there is absolutely no involvement of applicant which even otherwise according to prosecution is based on statement of co-accused and to some extent on the additional statement of complainant recorded 4 days after the report wherein it is stated that one amongst three persons who ran away from the car is applicant. Perusal of case diary no where reveals as to what prompted the complainant to make subsequent statement stating as aforesaid. Similar statement of other police constables are also recorded. Thus, there is nothing to hold as to what prevented complainant to state this fact in the report. Nor from the case diary it can be noted as to how name of one person who ran away from the spot came to be revealed during investigation, except from the statement of co-accused which is not admissible evidence.

5. In the circumstances, interim order dated 20/2/2018 stands confirmed with further direction to applicant to attend Investigating Officer, if called. Application stand disposed of as allowed.

**(P.N. DESHMUKH, J)**