

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.330 OF 2018

Ajinkya @ Avinash Shinde

..Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Silvin Y. Kale for the Applicant .

Mr. S. H. Yadav, APP for the Respondent.

Mr.Amol Deshmukh, API Panvel City Police Station.

CORAM : P. N. DESHMUKH, J.

DATE : 5th MARCH, 2018

P.C.:

. This application is filed for grant of anticipatory bail in C.R. No.439/2017 under sections 307, 326, 143, 144, 146, 147, 148 and 149 of the IPC registered by Panvel Town Police Station.

2. Heard the learned counsel for the Applicant and learned APP for the State. Perused the case diary. It is submitted on behalf of the applicant that his name is not mentioned in the FIR and in fact the applicant is not known as Avinash, but is named as Ajinkya. The record reveals that in view of the submission as aforesaid on the earlier date, this Court had granted leave to the applicant to place on record the documents to show that he is named as Ajinkya and not Avinash. Learned counsel for the applicant has accordingly tendered at bar adhar and ration card, the copies of which are taken on record which are issued to Ajinkya A. Shinde. Learned counsel for the applicant has submitted that since the applicant is not known as Avinash, he is entitled for grant of anticipatory bail.

3. Mr.Yadav, learned APP opposed the application and submitted

that during the course of investigation, the statements of the wife of the applicant along with one Nitin is recorded. It is stated in their statements that Avinash and Ajinkya are one and same person and Ajinkya is also known as Avi @ Avya amongst his friend circle.

4. After considering both the statements, the prosecution has prima facie established that the applicant is known as Ajinkya @ Avinash. However, from the FIR it reveals that no name of the applicant is mentioned therein. The contents of FIR shows that the incident took place on 10/12/2017 at 10.30 p.m. when complainant's son Sudarshan was intercepted by co-accused Sachin Gaikwad, who abused him and assaulted Roshan, who was accompanying the complainant by kick and fist blows. It is further stated that Sachin Gaikwad was accompanied by 6-7 accused persons and after committing assault they fled away from the spot. Though the report reveals that in the said assault Roshan was assaulted on his back by knife while the complainant sustained injuries on right side shoulder and back, there is no mention of the applicant as the assailant. Moreover, the statement of eye witness relied by the prosecution when perused reveals that in the incident of assault, co-accused Sachin Gaikaw was instigating the assailants vis. Vikas, Avinash and Abid saying that they should not leave the complainant and his brother Roshan and that they should be killed and therefore one of the co-accused Abid committed assault by knife on Roshan.

5. Having considered the statement of eye witness, no over act is found attributed to the applicant. In the circumstances, on considering the available evidence against the complainant, the application is liable to be allowed by imposing conditions as per the order below:

ORDER

- i) In the event of arrest of the applicant in C.R.

No.439/2018 registered at Panvel Town Police Station, the applicant be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

ii) While on bail the applicant shall attend Investigating Officer as and when called till the filing of the charge-sheet and shall not leave jurisdiction of Panvel Town Police Station without obtaining permission of the Investigating Officer till filing of the charge-sheet.

iii) The parties to act on an authenticated copy of this order issued by the Sheristedar.

(P.N. DESHMUKH, J)