

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) 470 OF 2018

(Sk. Ahmad @ Amdu s/o. Yasin Qureshi..vs.. The State, thr PSO, PS Yavatmal City)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Parvez W. Mirza, counsel for applicant.
Shri V.A. Thakre, APP for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE: 20th July, 2018.

Heard.

2 The applicant is apprehending arrest in Crime 118 of 2018 registered at Police Station Yavatmal City for offences punishable under section 302, 120-B, 341, 506 read with section 34 of the Indian Penal Code and under the provisions of the Arms Act.

3 It is not in dispute that the chargesheet is filed under section 299 of the Code of Criminal Procedure ('Code' for short) and the applicant is shown absconding. The submission of the learned counsel for the applicant is that the implication of the applicant is an afterthought. The name of the applicant neither figures in the First Information Report nor in the statements of the witnesses. The learned counsel Shri Parvez Mirza would submit that even Tausif Khan who was present with the deceased at the time of the assault, has not implicated the applicant. The further submission is that the name of the applicant has surfaced in supplementary statements recorded belatedly

after 12 days of the incident and there is no explanation forthcoming for the delay. Shri Mirza submits that the applicant is implicated with the aid of section 120-B of Indian Penal Code without there being any cogent material on record to suggest a conspiracy. The final submission is that the applicant is entitled to anticipatory bail since his custodial interrogation is not necessary.

4 In the light of the submission of Shri Parvez Mirza, the learned counsel, I have endeavored to prima facie evaluate the material on record and having done so, I am satisfied that no case for grant of anticipatory bail is made out.

5 The offence is extremely grave. Since the applicant was not available to the Investigating Agency, the final report is submitted invoking section 299 of the Code, with the result that the investigation is incomplete qua the role of the applicant.

6 The submission that the name of the applicant has surfaced after a few days and that there is no explanation coming forth for the delay in recording the statements, shall undoubtedly be considered by the learned trial Court after evidence is recorded. Prima facie, there is more than ample material on record to link the applicant with the charge of conspiracy. The statement of the complainant recorded on 24.2.2018 implicates the applicant. The supplementary statements of the witnesses including the witness Tausif Khan also implicate the applicant. The CDR and tower location details reveals that

the applicant was in touch with the assailants prior to and after the incident. The learned Sessions Judge who rejected the application seeking anticipatory bail is justified in observing that if the Investigating Agency is not permitted to interrogate the applicant in custody, it would be difficult to unearth the conspiracy.

7 No case is made out to exercise the discretion in favour of the applicant. The application seeking anticipatory bail is without substance, and is rejected.

JUDGE

RSB