

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

ANTICIPATORY BAIL APPLICATION NO.92 OF 2019

Bhimrao Bapu Atigre	 Applicant
versus	
The State of Maharashtra	 Respondent

.....

- Mr.Kedar H. Patil, Advocate for Applicant.
- Ms.S.S. Kaushik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th JUNE, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.289/18 registered with Shivaji Nagar Police Station, Kolhapur, under sections 307, 504 r/w 34 of the Indian Penal Code.
2. On the last occasion, the Investigating Officer was not present and therefore the matter was adjourned for today. It was mentioned in the order dated 10/06/2019 that learned APP submitted that the Investigating Officer was unable to come to Court on that day and on his behalf time was sought. Even today, when the matter was called out in the morning the Investigating Officer was not present. In the afternoon session

also the Investigating Officer is not present. Thus, it is quite obvious that the Investigating Officer is not serious about the matter and is not serious about arresting the Applicant.

3. However, I am deciding this matter on merits taking into account the statements in the FIR. The perusal of the FIR sufficiently establishes the prosecution case and therefore the application is decided on that basis.

4. The FIR is lodged by one Jitendra Hari Mhaskar who is a social activist. He has filed an application against the present Applicant and others in respect of the transaction concerning Gat No.639 and 640. Pursuant to that, the Circle Officer was conducting an enquiry. The present Applicant was participating in that enquiry and therefore he was holding grudge against the present informant. On 14/08/2018, at about 09.45 a.m., the informant saw the present Applicant talking with somebody in front of his house. At 10.30 a.m., the informant had gone to Ichalkaranji. At that time, he saw the present Applicant going on a motorcycle with one Akash and it is the case of first informant

that, the present Applicant pointed his finger towards the informant indicating about him to Akash Avale. Shortly thereafter, the informant was returning from the same road. At that time, he saw the present Applicant, Akash Avale, Ganesh Nimbalkar, Avinash Chavan etc. standing together. Akash called out his name loudly and threw a sickle towards him. It is the case of the informant that the sickle was thrown in such a manner that if it had reached him it could have caused injury to his neck. The first informant evaded such injury and went away and thereafter he lodged the FIR.

5. Perusal of the FIR shows that the grievance of the first informant is that the Applicant pointed out the informant to Akash. The FIR mentions the name of Akash that means the informant was knowing him. So even for Akash, the informant was not a stranger. Thus there is no reason as to why the Applicant would point out the first informant to Akash. Subsequently, the sickle was thrown by Akash and no further incident had taken place. The associates of the Applicant did not

assault the first informant and no injury was caused. In this view of the matter, it is very difficult to attribute any criminal intent to the present Applicant and therefore custodial interrogation of the Applicant is not necessary. The allegations do not travel beyond the possible motive attributed to the present Applicant. In this view of the matter, the Applicant has made out the case for protection of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.289/18 registered with Shivaji Nagar Police Station, Kolhapur, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)