

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

ANTICIPATORY BAIL APPLICATION NO.337 OF 2019

Subhash @ Bapusaheb Laxman Jagtap	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

Mr.Viresh Purwant for the applicant.

Mr.S.H. Yadav, APP for respondent-State.

Mr.Nitin Satpute a/w Ms.Divya Gupta i/by Mr.Nitin R. Dhandore for original complainant.

Mr.Ravindra Dongre, P.I., Kurduwadi Police Station, Solapur.

CORAM : P.N. DESHMUKH, J.

DATE : 27th March 2019

P.C.:

1. One of accused involved in C.R. No.254 of 2018 registered with Kurduwadi Police Station, Solapur for offence punishable under Sections 302, 120B, 504, 506, 143, 147, 148, 149 and 427 of IPC seeks bail before arrest.

2. Heard learned counsel for applicant who has submitted that applicant is falsely involved in this crime due to political rivalry. To substantiate his innocence, it is submitted that incident has occurred on 17th June 2018 at about 12.30 p.m. to 12.45 p.m., however, at that time, applicant was attending marriage and as such cannot participate in assault on deceased Vicky Vishnu Gaikwad. For that reason, learned counsel

submitted that relevant pendrive containing CCTV footage is provided to Investigating Officer on the earlier date.

3. Another ground put forth by applicant is of statement of witnesses namely Ashish Rajput and Rajat Dhainje and submitted that applicant named was not stated to be involved and thus seeks anticipatory bail by imposing suitable conditions to facilitate further investigation.

4. Learned APP opposed application on the ground that custodial interrogation of applicant is necessary as his name is mentioned in the report as one of assailants. Learned APP has also submitted that applicant is criminal element having 10 crimes registered against him. It is also submitted that sword involved in the crime is to be recovered.

5. Perused copy of charge-sheet. Perusal of report would reveal that on 17th June 2018, between 11.00 a.m. to 11.30 p.m., deceased Vicky Gaikwad had been to Kurduwadi Police Station for marking his presence as per order of Court who had released on bail in some other crimes. Thereafter, he came to the house of his relatives to meet them along with his friends namely Ashish Rajput, Varun Dhainje and Sonu Dhainje. After he left house of his relatives along with above named friends,

applicant along with other co-accused and 10 to 12 unknown persons were present near the house where deceased had gone to meet his relatives. Immediately after complainant along with deceased and his friends named above crossed toll-naka and were proceeding towards Bhosare village in a car, 10 to 12 two wheelers came from opposite side which were occupied by accused persons armed with dangerous weapons like koyta, swords and other sharp weapons. Deceased was occupying front seat next to driver. Car was driven by Ashish. All accused persons including applicant who was amongst them armed with swords who according to report, instigated other accused to commit assault on deceased and in the course of same transaction, applicant himself committed assault by sword due to which deceased sustained serious bleeding injuries and fell down. Statement of Ashish Rajput, Varun Dhainje and Sonu Dhainje materially corroborates contents of report on point of assault by applicant on the person of deceased. At this stage, there is nothing to disbelieve the version of complainant who was also eye-witness to incident.

6. With regards to case of applicant, his plea of attending marriage at the time of incident and of providing CCTV footage in pendrive to Investigating Officer, learned APP, on instructions, makes a

statement that though applicant is found in some marriage function which was from 12.00 noon to 1.30 p.m. and FIR reveals that incident took place on that day between 12.30 p.m. to 12.45 p.m. Admittedly, incident took place at a distance of about 1½ kms. from place where the marriage was attended by applicant. Thus, judicial note can be taken of the fact that one can travel this distance within couple of minutes and return to the marriage venue.

7. In that view of the matter, there is no substance in case of applicant that since he was in marriage cannot be part of incident of assault. In fact, perusal of Post Mortem notes would reveal that deceased was assaulted brutally having sustained as many as 15 injuries consisting of incise wounds possible by sharp weapon and fracture injuries.

8. As from report, applicant's involvement prima facie is seen, no case is made out. Application is thus rejected.

P.N. DESHMUKH, J.