

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

ANTICIPATORY BAIL APPLICATION NO.1031 OF 2019

Lahu Shivaji Kadam

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Sachin R. Pawar, Advocate for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.
- Mr. R. A. Koli, PSI, Talegaon MIDC Police Station, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 1st AUGUST, 2019

P.C. :

1. The applicant is apprehending his arrest in connection with C.R. No.39/2019 registered at Talegaon MIDC Police Station, Pune, under section 392, 341 r/w. 34 of IPC.

2. The FIR is registered on 13/2/2019 by one Balu Bansode. The informant has stated in his FIR that he was having a tea stall outside the main gate of JCB Company. On 13/2/2019,

at 8.00 p.m. he had closed his tea stall and he was going back to his house on Activa two wheeler. When he reached near Aadhi Circle, suddenly one Pulser motorcycle overtook him. There were three persons travelling on that motorcycle. They intercepted the informant. They had covered their faces with handkerchiefs. One of them approached him and threatened him. One of them was about to assault him with a sickle. The first informant fell down on the road. He tried to run away. One of the accused person removed gold chain worn by him. Thereafter, all the three accused went away on their motorcycle. The first informant was taken to general hospital at Talegaon and thereafter, this FIR is registered.

3. Heard Mr. Sachin Pawar, Ld. Counsel for the Applicant and Mr. Yadav, Ld. APP for the State.

4. Mr. Pawar submitted that the investigating agency has already arrested three accused persons. The incident is only in respect of three persons. Therefore, there cannot be involvement

of the present applicant in this case as a fourth person.

5. As against these submission, Ld. APP submitted that the co-accused Vaibhav Kalyankar had given statement leading to recovery of gold chain and weapons on 21/2/2019. The gold chain is identified by the first informant. Thus, the prosecution has established the connection of the accused Vaibhav Kalyankar with the offence. Shri. Yadav submitted that said accused Vaibhav Kalyankar had disclosed the name of the present applicant as 'master mind' behind this incident. Therefore, according to Shri. Yadav, at this stage, custodial interrogation of the applicant is necessary.

6. Shri. Pawar submitted that the statement of the co-accused is inadmissible piece of evidence recorded under section 27 of the Evidence Act. He further submitted that the applicant is working for human rights and therefore, is falsely implicated.

7. I have considered these submission. Though, it is true that assailants had covered their faces with handkerchiefs and therefore, it was not possible for the informant to identify them. The co-accused Vaibhav Kalyankar was arrested in this case and at his instance informant's gold chain is recovered. The informant has identified that gold chain. Therefore, at this stage, there is material connecting that accused with the offence. During investigation, Vaibhav Kalyankar had given information that present applicant had planned this offence and it was executed by other three accused. Therefore, at this stage, this material can be taken into consideration for deciding his anticipatory bail application. At this stage, there is sufficient material with the investigating agency showing connection of the present applicant necessitating his custodial interrogation. In this view of the matter, no case is made out for grant of anticipatory bail. Hence, the application is rejected.

(SARANG V. KOTWAL, J.)