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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 2217 OF 2018**

Mr. Suresh Hiralal Sarwan

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Manoj M. Gadkari advocate for the applicant

Mr. Jay S. Patil i/b Mr. Vikrant Phatate

Mr. A. A. Palkar APP for the State

CORAM : NITIN W. SAMBRE, J.**DATE : JANUARY 23, 2019.****P.C.**

Heard the learned counsel for the applicant and the learned APP.

2 In Crime No. 308/2018 registered with Daund Police Station for offence punishable under Sections 302, 341, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and Sections 4, 25 & 27 of the Arms Act, applicant is seeking pre-arrest bail.

3 It is the submission of the learned counsel for the applicant that co-accused Sujit Tak is the accused in Crime No. 104/2015 and Crime No. 20/2018 which were punishable under Sections 325, 324, 143, 147, 149, 323, 504, 506 of the Indian Penal Code, Sections 4, 25 of the Arms Act and Section 363 and 397 of the Indian Penal Code respectively. According to him, applicant has appeared in the matters for the accused persons being a lawyer as could be inferred from the copies of Vakilpatra placed on record. According to the applicant, in the aforesaid background, if the contents in the F.I.R. are perused and appreciated, applicant is named at serial no. 9 in the crime in question with no specific role but for his physical presence on the spot of the incident. According to him, it is the case of false implication of the applicant as his professional duty is considered by the complainant to be an impediment in estranged relations of complainant with that of other co-accused. As such, according to him, applicant is entitled to be released on bail in absence of any antecedents.

4 The learned APP submits that applicant in categorical terms named as accused at serial no. 9 in the F.I.R. demonstrating his presence and as such custodial interrogation is required.

5 Considered rival submissions.

6 From the documents which are placed on record by the learned counsel for the applicant, if the signature of the applicant on the Vakilpatra which are produced on the record in the case in hand are verified with that of signature on the verification in the bail application, it can be easily inferred that applicant was appearing as a lawyer for the accused in crime in question. The said Vakilpatra are produced on record tat page 241 and 247 of the application representing the interest of the co-accused in the above referred two offences.

7 In the aforesaid background, considering the role attributed to the applicant in crime in question of physical presence on the spot of the incident, custodial interrogation is not warranted particularly

when there are no criminal antecedents and no specific role is attributed. Hence, following order:

(A) In the event of arrest of applicant in Crime No. 308/2018 registered with Daund Police Station, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

(B) Applicant shall attend the Investigating Officer on 04/02/2019, 06/02/2019, 08/02/2019, 12/02/2019 and 15/02/2019 between 10.00 a.m. to 12.00 noon and thereafter as and when directed by the Investigating Officer.

(C) Applicant shall not influence witnesses or tamper with evidence.

8 Application stands disposed of.

[NITIN W. SAMBRE, J.]