

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

ANTICIPATORY BAIL APPLICATION NO.2272 OF 2018

Dilip Maruti Pawar

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Aniket Nikam i/b. Vivek N. Arote, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.
- API Mr.V.A. Bhabad, Hadapsar Police Station, Pune, present.

CORAM : SARANG V. KOTWAL, J.

DATE : 03rd JULY, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.112/18 registered with Hadapsar Police Station, Pune, on 28/01/2018 under sections 302, 212, 120-B, 143, 144, 147, 148 and 149 of the Indian Penal Code and under section 4(25) of the Arms Act and under section 7 of Criminal Law Amendment Act.
2. The FIR is lodged by PSI Umakant Vaijnath attached to Hadapsar Police Station, Pune. The FIR speaks about the murder

of one Sujit Verma who was assaulted at Gondhalenagar Hadapsar with sharp weapons. Based on such information and after observing the situation at the spot, this FIR was lodged by the first informant. He has not seen the incident.

3. The statement of API Prasad Lonare attached to the same police station shows that when he had received information about the incident, they were going towards the spot when they had seen accused Akshay Suryawanshi, Prithvi Suryawanshi and Kiran Gundewad going away on their motorcycle. They were seen with blood stained sharp weapons. When this witness had gone to the spot, the police examined the CCTV footage which had captured the incident of assault. The incident shows that Sujit Verma was assaulted by accused Kiran Gundewad, Akshay Suryawanshi, Akshay Hake and Pravin Sutar with sharp deadly weapons.

4. The persons, who were seen in the CCTV footage assaulting the deceased, were arrested. The investigation was

carried out and charge-sheet was filed against them and others. The present Applicant is apprehending arrest in connection with the same offence.

5. Heard learned Counsel Mr.Aniket Nikam for the Applicant and learned APP Mr.S.H. Yadav for the State.
6. Mr.Nikam submitted that there is no connection of the present Applicant with the actual incident of assault. The allegations against the present Applicant are that after the incident he had tried to make arrangements for giving shelter to the actual assailants; which act would at the most attract the provisions of section 212 of IPC, which is a bailable offence.
7. As against this, Mr.Yadav, the learned APP, submitted that the offence was very serious and the Applicant does not deserve protection of anticipatory bail.
8. The charge-sheet shows that the present Applicant had tried to give shelter through his acquaintance to the actual assailants. There is a statement in the charge-sheet of one

Arvind Bhiva Pawar recorded on 24/04/2018. The said witness has stated that, on 29/01/2018, the present applicant had called him on his telephone and had instructed him to make arrangements of stay of four persons. According to the prosecution case, those four persons were the actual assailants. When this witness came to know that they had committed murder, they were driven away. Thus, in the entire charge-sheet this is the only statement which shows that the Applicant had tried to give shelter to the assailants after they had committed murder which may amount to offence u/s 212 of IPC, which is a bailable offence.

9. The Investigating Officer has filed affidavit in this application. In the said affidavit it is mentioned that the Applicant had telephonically contacted the actual assailant Akshay Suryawanshi on 21/01/2018. Though there is also a reference that the Applicant had contacted other accused between 21/01/2018 and 30/01/2018, the only relevant circumstance is his contact with the actual assailant Akshay

Suryawanshi. This telephonic contact was made on 21/01/2018. After that the CDR report does not reveal that the Applicant had contacted him.

10. The charge-sheet shows that there are two eyewitnesses who had heard the talk between the accused and others when conspiracy to commit murder of Sujit Verma was hatched. Those two witnesses are Tirupati @ Takya Vitthal Lashkare and Nishant Bhagwan Bhagat. Their statements show that on 27/01/2018, about 20-25 persons belonging to an organization, were standing at Hadapsar. At that time accused Abhijit Bhosale had informed others that Sujit Verma had assaulted him. Accused Akshay Suryawanshi called somebody and then he informed the others that Anna Deokar, Sonya Dangmali, Prem Sutar, Shubham Kamthe and Akash Kakade had instructed him to commit murder of Sujit so that supremacy of their organization remained intact in that area. Thereafter they were discussing the means to collect money for procuring weapons. Thus, obviously, the conspiracy was hatched on

27/01/2018 and before that there is nothing to show that the accused had conspired to commit murder of Sujit Verma. The background of hatching this conspiracy was the assault committed by Sujit on Abhijit Bhosale on 21/01/2018. However, the charge-sheet shows that the decision to commit murder of Sujit Verma was taken only on 27/01/2018 at the instance of aforementioned persons viz. Deokar, Dangmali and others. In the entire conspiracy there was no mention of the present Applicant. Therefore if the Applicant had any telephonic conversation with the actual assailant Akshay Suryawanshi before 27/01/2018 it may not form part of the conspiracy and therefore at this stage it is not possible to observe to a greater degree of certainty that the present Applicant, was part of the conspiracy or group of conspirators, leading to murder of Sujit Verma. Therefore at this stage, there is no sufficient material to connect the present Applicant with the offence of murder or conspiracy to commit murder. Therefore, at this stage, the Applicant deserves protection of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.112/18 registered with Hadapsar Police Station, Pune, 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) If in future, during investigation, the investigating agency comes across any concrete material against the present Applicant, they are at liberty to make an application for cancellation of anticipatory bail.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)