

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

ANTICIPATORY BAIL APPLICATION NO. 2477 OF 2018

Bablu Hiralal Sarwan	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Manoj M. Gadkari a/w Mr. Satyam Nimbalkar for the Applicant.
Mr. A.R. Kapadnis, A.P.P. for the Respondent – State.

CORAM : P.N. DESHMUKH, J.

DATED : 8th APRIL, 2019.

P.C. :

1 Heard learned Counsel for applicant and learned A.P.P. Perused copy of charge-sheet filed against co-accused. Learned Counsel for applicant while praying for anticipatory bail, submitted that report lodged by Meena w/o deceased Vinod Narwala do not establish any involvement of applicant and has submitted that except for naming applicant in the report along with 15 other co-accused and 4 to 5 unknown persons, no specific role is attributed to him. It is contended that though there are statements of other witnesses, they are silent on any specific role of applicant in causing assault to deceased and as thus, contended that merely because if his name is mentioned in the report, applicant is apprehending his arrest in the present crime and seeks anticipatory bail.

2 Learned A.P.P. could not point out any specific role of applicant as an assailant of deceased as according to the complaint, assault was by all those persons which has resulted into multiple injury sustained by deceased which is stated to be his cause of death. Learned A.P.P. has also referred to statements of some witnesses namely Usha Waghmare, Malan Shinde, however, could not dispute that these witnesses also do not express any overact of applicant, but only attribute his presence.

3 In the background of above stated facts, and particularly considering that except for being present on the spot of the incident, where there are other more than 15 co-accused persons along with 4 to 5 unknown accused persons having arm with dangerous weapons like sword, iron rod and stones, etc. who are said to be assailants, no case is made out against applicant since no role is attributed to him.

4 In the background of above, even if deceased though is stated to have sustained as many as 16 external injuries including fracture and is further certified to have died of sustaining fracture, neither of these injuries can be attributed to applicant as it is no case of complainant nor any witnesses that applicant was armed with any weapon. In the circumstances, and as applicant's presence only is attributed on the spot, application is allowed as per order below:

ORDER

(i) In the event of arrest of applicant in C.R. No.308 of 2018 registered with Daund Police Station, District Pune, for the offences punishable under Sections 302, 341, 143, 147, 148, 149, 323, 504, 506 of I.P.C. and Sections 4, 25, 27 of Arms Act, he shall be released on bail on executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount.

(ii) While on bail, Applicant shall mark his presence with Investigating Officer for a period one week from 10.04.2019 and thereafter as and when called, if supplementary charge-sheet is proposed against him.

(P.N. DESHMUKH, J.)