

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.921 OF 2020

Hanumant s/o Vishnu Sadule ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. P. D. Jarare h/f Mr. S. S. Thombre, Advocate for applicant.
Mr. A. M. Phule, APP for respondent – State.

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WITH
ANTICIPATORY BAIL APPLICATION NO.954 OF 2020

Gotya @ Dadarao s/o Manik Pawar ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. S. S. Pawar h/f Mr. M. L. Dharashive, Advocate for applicant.
Mr. A. M. Phule, APP for respondent – State.

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WITH
ANTICIPATORY BAIL APPLICATION NO.956 OF 2020

Mahadev s/o Sakahhari Wakde ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. S. J. Salunke, Advocate for applicant.
Mrs. R. P. Gaur, APP for respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 08-12-2020

COMMON ORDER :

. All the applicants are apprehending their arrest in connection with Crime No.113 of 2020 registered with Bardapur Police Station, Dist. Beed for the offences punishable under Section 302 read with Section 34 of Indian Penal Code and, therefore, they are praying for anticipatory bail.

2. Heard learned Advocate Mr. P. D. Jarare holding for learned Advocate Mr. S. S. Thombre, learned Advocate Mr. S. S. Pawar holding for learned Advocate Mr. M. L. Dharashive, learned Advocate Mr. S. J. Salunke for applicants and learned APP Mr. A. M. Phule and Mrs. R. P. Gaur for respondent – State in respective applications. In order to cut short it can be said that all of them have made submissions in support of their respective contentions.

3. The facts revealed in the FIR would clearly show the delay in lodging the FIR. The information is lodged by the brother of the deceased. The incident is stated to have taken place on 19-08-2020, yet, the FIR has been lodged on 24-09-2020. Though it is disclosed by learned APP that a written submission was made by the informant earlier, yet, it can be seen that the police had not taken cognizance of the same. Even the FIR is styled as *Puravani Jawab* i.e. supplementary statement. In the FIR, it is contended that one witness by

name Kalyan Udar had given a phone call to the informant on 22-08-2020 and narrated the story. Informant himself says that he had not believed the said statement and then he says that he met the witness personally and then lodged the report. If we peruse the statement of said Kalyan, it can be seen that he has witnessed the deceased along with the present applicants till they had entered the water tank, but then he does not say in specific words that he had seen accused Mahadev throwing stone and accused Hanumant and Gotya dragging deceased inside the water. But in the FIR, the informant claims that such detailed statement was made by witness Kalyan before him. If we see the postmortem report, then there is absolutely no surface injury. There is no direct evidence and though said witness Kalyan has been posed as witness, at the most, it appears that he would be on the point of last seen together. The case appears to be even at this stage rested on circumstantial evidence. Further, witness Kalyan does not say that there was any dispute or he had heard anything between these persons which would have prompted the present accused persons to commit murder of Kishor. The informant is now saying that witness Kalyan disclosed him that there was demand by these accused persons to Kishor to give money for drinking liquor. Therefore, at this stage, the observations can be made that there appears to be lack of motive also. When such evidence has been collected, at this stage, the applicants' custody is not required for the purpose of investigation. Hence, the following order :-

ORDER

- 1) All the anticipatory bail applications stand allowed.
- 2) The orders passed by learned Additional Sessions Judge, Ambajogai in Miscellaneous Criminal Bail Application Nos.435 of 2020 and 417 of 2020 dated 08-10-2020 are hereby set aside. The said applications stand allowed.
- 3) The ad-interim protection, granted by this Court earlier to the applicants in respective applications vide orders dated 15-10-2020 and 23-10-2020, is hereby confirmed and made absolute. In the alternative, in the event of arrest of the applicants in respective applications viz., (i) Hanumant s/o Vishnu Sedale, (ii) Gotya @ Dadarao Manik Pawar and (iii) Mahadev s/o Sakharari Wakde, in connection with Crime No.113 of 2020, registered with Bardapur Police Station, District Beed for the offences punishable under Section 302 read with Section 34 of Indian Penal Code, they be released on P. R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.
- 4) The applicants shall not tamper with the evidence of the prosecution in any manner and shall cooperate with the investigation.
- 5) The applicants shall remain present before the Investigating Officer on every Sunday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.

[SMT. VIBHA KANKANWADI, J.]