

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.22 OF 2020

1. Datya Biskutya Bhosale, Occ.Labourer,	
2. Sauri Datya Bhosale, Occ.Labourer,	
R/o.Bhoitevasti, Rajale, Tal.Phaltan, Dist.Satara	Applicants
versus	
The State of Maharashtra	Respondent

Mr.Rahul K. Dhaygude for applicants.
Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th January 2020

PC :

1. This is an application for anticipatory bail in connection with CR No.79 of 2016 registered with Phaltan Gramin Police Station for offences under Sections 302, 323, 452, 504, 506, 143, 147, 148, 149 of Indian Penal Code. The FIR was lodged on 10th March 2016.

2. It was alleged that the accused has assaulted the deceased. The role attributed to the applicants is that they had assaulted on the head of deceased by stick. The other accused had assaulted by stone and iron pipe. Some of the accused were arrested and charge sheeted. They were tried. The case has resulted in acquittal.

3. The applicants preferred an application for anticipatory bail before Sessions Court on 9th September 2019 which is rejected on 5th November 2019.

4. Learned advocate for applicants submits that considering the role attributed to the applicants in the FIR, the applicants need not be subjected to custody. They were available at their permanent place of residence and they never absconded. The co-accused were tried and acquitted. He further submitted that the eye witness has not supported the prosecution case. The prime witnesses have deposed that the injuries were caused on account of accident and on the basis of evidence the Court has acquitted the accused. He drew my attention to the notes of evidence and the judgment of Trial Court. He further submitted that the charge sheet was filed u/s 299 of Cr.PC and no purpose will be served by subjecting the applicants to custodial interrogation.

5. Learned APP submitted that both the applicants were absconding since 2016. Specific role has been attributed to the applicants. The applicant no.1 had assaulted the victim on head. The post mortem report indicates that the cause of death was due to injury to brain. Supplementary charge sheet will be required to be filed against applicants after their arrest.

6. I have perused the documents annexed to this application. Undisputedly the incident had occurred on 9th March 2016. The FIR was lodged on 10th March 2016. Perusal of the FIR and the documents which form part of the charge sheet filed against arrested accused, prima facie, disclose commission of offence. Since 2016 the applicants did not make them available. After acquittal of co-accused the application for anticipatory bail was preferred in the year 2019. The witnesses have turned hostile. However, considering the role attributed to the applicants and considering the fact that they were

absconding for a period of more than two years, merely on account of acquittal of the co-accused, no relief u/s 438 of Cr.P.C can be granted to the applicants. Hence, Criminal Anticipatory Bail Application No.22 of 2020 is rejected.

(PRAKASH D. NAIK, J.)

MST