

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

**ANTICIPATORY BAIL APPLICATION NO.216 OF 2020
WITH
INTERVENTION APPLICATION NO.1 OF 2020**

Hanumant Baburao Patil

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Mr.A.P. Mundargi, Senior Advocate i/b. Mr.Priyal G. Sarda,
Advocate for the Applicant.

Mr.S.S. Pednekar, APP for the Respondent – State.

Mr.Aniket Nikam i/b. Mr.Vivek N. Arote, Advocate for the
Intervenor.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 03, 2020.

P.C. :

This is an application for anticipatory bail in connection with C.R. No.229 of 2019, registered with Akkalkot South Police Station, District-Solapur, for the offences punishable under Sections 302, 143, 147, 148, 149, 323, 109, 504 and 506 of Indian Penal Code (“IPC”, for short) and Sections 3 and 25 of Arms Act.

2 The case of the prosecution is that on 18th May, 2019, at about 7:30 a.m., first informant and other relatives were chit-chatting near hotel owned by Mahadev Dindure and at that time, complainant's uncle Baburao Patil, Shrishail Patil and Ramesh Patil got down. Pintu alias Annarao Patil, Umesh Patil, Layyappa Patil, Jagdev Patil came. They started quarreling with the complainant on the issue of the bullock festival and respect to be given to them while performing the festival. Mahadev informed Pintu Patil and others that they are elders and hence they should get the honour. Pinku Patil stated that his elder brother Hanumant Patil (applicant) had stated that he would take care of all legal aspects , and, if need arises they should kill. He further stated that they would not spare complainant and started abusing and assault. On hearing shouts, mother of complaint, wife of his brother, wife of complainant and others came at the spot. At that time Layyappa Patil assaulted by stone by giving blow on head of Mahadev. Umesh Patil assaulted complainant with stone. Baburao Patil instigated Pintu Patil. He took out 12 bore gun and shot at Mahadev. He was taken to hospital. FIR was lodged. Mahadev died. Section 302 was applied.

3 The applicant preferred an application for anticipatory bail before the Sessions Court, which has been rejected by order dated 10th January, 2020.

4 Learned counsel for the applicant submitted that there is no cogent evidence against the applicant to show his complicity in the crime. The name of the applicant is referred on account of rivalry. Applicant has been falsely implicated in this case. The applicant has not played any role in the incident. Applicant was not present at the place of incident. The only allegation is that Pintu had stated that the applicant had told him that he would take care of all the legal recourse and if need arises, person should be killed. It is submitted that similar statements are recorded during the course of investigation. Merely on the basis of such statements, it cannot be said that the applicant has instigated the accused who were present at the place of incident to commit the crime. It is further submitted that reading the FIR, it is apparent that the main cause of incident is the quarrel which took place at the time of incident and the exchange of words between the person who were present at the scene of offence. The said act cannot be attributed to the applicant. The complainant has thereafter in his supplementary

statement has improvised his version with a view to implicate the applicant. Learned counsel also pointed out the statement of Prakash Basappa Patil recorded on 23rd May, 2019, and submitted that the opponents were aggressor. The said statement runs counter to the prosecution case. It is submitted that the applicant need not be subjected to custodial interrogation.

5 Learned APP submitted that there is sufficient evidence to show the involvement of the applicant in the crime. His name has been referred to by the complainant. There are other statement on record, which shows the complicity of the applicant in the crime. The incident had occurred on account of instigation of the applicant. Supplementary statement of the complainant supports the prosecution case. Applicant is having criminal antecedents registered with Akkalkot Police Station vide C.R.No.84 of 2009 for the offences punishable under Sections 302, 324, 326 and 307 of IPC, C.R.No.22 of 2018, under Sections 379, 353, 360 and 115 of IPC and C.R.No.264 of 2018, under Sections 143, 147, 149 and 427 of IPC. It is submitted that in C.R.No.84 of 2009 applicant is convicted for offence punishable under Section 324 of IPC. There are cases registered with Zalki Police Station District-Vijapur Karnataka vide C.R.No.234 of

2016, C.R.No.121 of 2017, under Section 307 of IPC and C.R.No.135 of 2017. Last three cases are registered in the State of Karnataka. Learned counsel for the intervenor adopted the arguments of learned APP.

6 I have perused the material on record. The charge - sheet filed against the co-accused has been annexed to this application. FIR was registered on 18th May, 2019. Applicant's name has been referred as stated above. Subsequently, involvement of the applicant is disclosed in supplementary statement of complainant dated 25th May, 2019. It is stated that 15 days ago, applicant had threatened Mahadev that he should not insist for honour in Bailpola festival. His brother Pintu is dangerous, if he instructs he would commit murder. Be careful. In the FIR, it is mentioned that Pintu had stated that he is given instructions by applicant. It is pertinent to note that Pintu was carrying gun and he fired at deceased. During the course of investigation, several statements are recorded, which shows the complicity of the applicant. Considering the aforesaid circumstances, no case for grant of anticipatory bail is made out. Application stands rejected.

7 Interim application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)