

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.732/2020

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Rahul @ Rajan Sudhakar Bhosale.] ... Applicant

Versus

The State of Maharashtra.] ... Respondent

Mr. Umesh S. Iyer for Applicant.
Mr. Ajay Patil, APP for State.

CORAM :- C. V. BHADANG, J.
DATE :- 21 SEPTEMBER, 2020
(THROUGH VIDEO CONFERENCING)

P. C. :-

1. The Applicant, apprehending arrest in connection with investigation of Crime No.288 of 2020 registered at Lasalgaon Police Station, District – Nashik, under Sections 307, 323, 324, 504, 143, 147, 148, 149, 188, 269 and 270 read with 34 of the IPC, is seeking pre-arrest bail.

2. The aforesaid offence is registered on the basis of a complaint lodged by Bhushan Keshav Rayate. It appears that the incident is alleged to have arisen out of a dispute between two groups, one consisting of the applicant and the co-accused and the other group comprising of the complainant Bhushan Rayate and others. It further appears that there was a previous incident between the parties on

31/05/2020. The incident which is the subject-matter of the present FIR, is alleged to have occurred on 02/06/2020 at about 8.30 p.m. when the complainant Bhushan Rayate and Babasaheb @ Barku Rayate were sitting in front of Kotak Mahindra Bank. It is alleged that at that time, the co-accused Yuvraj Bhosale came there and started an argument with Barku Rayate in the context of the previous incident dated 31/05/2020. It is said that then Yuvraj telephonically called his brother Vinod Bhosale and both of them started assaulting Barku Rayate with fists and blows and abused him. It is the material prosecution case that when the complainant and Bhausahab Rayate tried to intervene in the quarrel, the Applicant, along with Sushil Bhosale, and Somnath Bakure came there. It is alleged that the Applicant (who is referred as Rajan Bhosale in the FIR) was having a sickle in his hand and the Applicant assaulted by means of a sickle initially to Bhausahab Rayate and thereafter Barku Rayate. On the basis of the complaint lodged by Bhushan Rayate, the offence was registered against the Applicant and 4 others.

4. Admittedly, on the basis of a counter-complaint lodged by Vinod Bhosale, an offence bearing C.R.No.287 of 2020 is registered against the other group.

5. The applicant had twice approached the learned Sessions Judge seeking anticipatory bail and the same has been refused.

6. I have heard the learned Counsel for the Applicant and the learned APP. With the assistance of the learned Counsel for the parties, I have gone through the record.

7. The learned Counsel for the Applicant strenuously urged that the Applicant has been referred to as Rajan Bhosale when his name is Rahul Bhosale. It is submitted that the co-accused in the present offence have been released, either on regular or anticipatory bail. It is pointed out that even the accused in the counter-FIR have also been released on bail. The learned Counsel for the Applicant has sought parity with the release of the co-accused in the present case. It is submitted that the learned Sessions Judge was not justified in refusing such parity. It is submitted that the investigation is completed and the charge-sheet is filed and the custodial interrogation of the Applicant is not necessary.

8. The learned Counsel for the Applicant submitted that the wife of the Applicant is in the 9th month of her pregnancy and the Applicant being the only person who is looking after her, if arrested, would suffer serious prejudice.

9. The learned APP has opposed the application. It is submitted that the role attributed to the present Applicant is distinct than the co-accused who have been released either on regular or anticipatory bail. It is submitted that it was the Applicant who assaulted the victim by means of a sickle and thus there is a clear intention to commit murder, made out against the Applicant.

10. I have considered the circumstances and the submissions made. Insofar as the Applicant being referred as Rajan Bhosale is concerned, in the present application itself, the Applicant has styled himself as Rahul @ Rajan Bhosale. I have gone through the order by which the co-accused have been released either on regular or anticipatory bail. Insofar as the present Applicant is concerned, *prima-facie* it appears that it was the present Applicant who is alleged to have assaulted the victim resulting into a grievous injury to the victim. Thus, the ground of parity, in my view, cannot be accepted, at least for extending the relief of an anticipatory bail. Looking to the nature of the offence, custodial interrogation may be necessary and at this stage, paramount consideration is the proper investigation of the offence. During the course of the hearing, a query was made to the learned Counsel for the Applicant whether if the Applicant is willing to surrender and apply for regular bail, for which the Applicant is not ready. In my

considered view, the personal ground on the basis of the medical condition of the wife, to my mind, cannot be override the other consideration. In the result, the criminal application is dismissed.

11. It is made clear that the observations made here are of *prima-facie* nature, for the limited purpose of deciding the plea for anticipatory bail.

(C. V. BHADANG, J.)