

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

26 ANTICIPATORY BAIL APPLICATION NO.562 OF 2021

Kiran s/o Petras Kedare

Age; 48 years, Occ; Sarpanch,

R/o; Gadegaon, Tq. Paithan,

District; Aurangabad.

...Applicant

VERSUS

The State of Maharashtra

Through Investigation Officer,

Bidkin Police Station,

Tq. Paithan, District; Aurangabad.

...Respondent

...

Advocate for Applicant : Mr. V.D. Sapkal (Senior Counsel) i/by Mr.
Gore Ravindra Vitthal

APP for Respondent-State : Mr. V.M. Kagne

Advocate for Complainant : Mr. Ranjit D. Gaikwad h/f Mr. S. G.
Kawade (Assist to learned APP)

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CORAM : SANDEEP K. SHINDE , J.

Reserved Date : 26.07.2021.

Pronouncement Date : 03.08.2021

P. C. :

1. Apprehending the arrest in connection of Crime No. 131 of 2021 dated 3.05.2021 registered with Bidkin, Police Station, Taluka Paithan, District Aurangabad, for the offences punishable under Sections 302, 201, 120-B read with Section 34 of Indian Penal Code ('IPC' for short), the applicant is seeking pre-arrest bail.

2. Applicant was granted interim pre-arrest protection by

this Court on 1st June, 2021 on certain terms and conditions.

PROSECUTION CASE :-

3. Kanta Shinde the (deceased) is the brother of the complainant. On 03rd May, 2021, in the morning Kanta's dead body was found in a field near Mhasoba bridge. Postmortem report shows that Kanta had suffered as many as 28 injuries. The autopsy surgeon opined head injury was the probable cause of the death. Crime was registered against the unknown persons. Statements of Shripati Maruti Shinde (father of the deceased) and one Kiran Vitthalrao Nikam disclosed the complicity of Anil Ashok Kedare, Sanjay Manohar Kedare and Rajesh Prabhakar Kedare. (Hereinafter called 'Kedares'). Witness Kiran Nikam claims that he had seen the deceased in the company of three accused persons on 02nd May, 2021. The version of Kiran Nikam is corroborated by Shripati Maruti Shinde (the father of the deceased). On this disclosure Anil Kedare, Kedare and Rajesh Kedare's were arrested.

4. It may be stated that there is no evidence on record to suggest the applicant was in the company of the deceased, soon before the incident. While interrogated, co-accused disclosed, that on 02nd May, 2021, at around 6.30 p.m., they assaulted the deceased at the command of the applicant. To indicate and suggest the complicity of the applicant in the crime, prosecution has relied on the CDRs,

where from, it is evident, that before and after the incident the co-accused were in contact with the applicant. Besides, evidence on record definitely suggest the applicant and family members of the deceased were on inimical terms by reason of local caste politics at panchyat elections, because the deceased was the former Deputy Sarpanch, whereas, the applicant is presently heading the panchyat. It seems, accused (Kedare's) represent a particular caste of the society, opposed by the deceased and the family. Additionally, before the alleged incident, although, quarrel ensued between the family of the applicant on one hand and the accused on the other hand, over a right of way. Yet, family of the deceased did not report the incident, since they were afraid of being implicated in a false counter atrocity case by Kedare's. The evidence therefore, convey the motive was the caste based politics in village. The statement of another witness also suggest that in the morning of 02nd May, 2021, the applicant and his supporters (Kedare's) had threatened the family members of the deceased of dire consequences over the boundary dispute of a field and a right of way. In consideration of the facts aforesaid, although, the material on record is not suggesting direct involvement, yet in view of the attendant circumstance I have reason to believe that the applicant and co-accused, conspired to eliminate Kanta Shinde for more than one reason. Generally a conspiracy is hatched in secrecy and it is difficult to adduce a direct evidence of the same. The

prosecution often rely on the evidence of acts of various parties to infer that they were done in reference to their common intention or more often rely upon the circumstantial evidence as held in **Kehar Singh and Ors vs. State 1983 (3) SC 609**, herein, the investigation is in progress and attendant circumstances do not fully ruled out the possible complicity of the applicant in the subject crime. In consideration of the facts of the case, the gravity of the offence, in my view, the custodial interrogation of the applicant is necessary for effective and meaningful investigation. For the reasons stated above, anticipatory bail application is rejected. Interim protection granted to the applicant by this Court on 01st June, 2021, is vacated.

(SANDEEP K. SHINDE)
JUDGE

mahajansb/

5. Learned counsel for the applicant seeks continuation of interim pre-arrest protection for four weeks. Request is rejected.

(SANDEEP K. SHINDE)
JUDGE

mahajansb/