

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 6 OF 2021

Sagar Sudam Gawali	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Sachin K. Shirke, Advocate for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

Mr. A. E. Kaldate, P. I. Kasarwadavali Police Station, Thane City Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 11th FEBRUARY, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 294 of 2020 registered with Kasarwadavali Police Station, Dist. Thane for offences under Sections 302, 201, 120-B r/w Section 34 of Indian Penal Code.

2. The prosecution case is that Anil Laxman Javir resident of Malad, Mumbai lodged missing complaint about his brother Tajanji Javir (deceased) who was working for Baliram Nagalkar as property caretaker. During investigation it was found that missing person was working for Baliram Nagalkar for last 12 years. First informant received secret information that suspect Santosh Chandrakant Ghugare, has eliminated the deceased and absconded

from the locality. Santosh Ghugare was arrested. During investigation he informed that he knew the deceased since last 12 years and deceased was alcoholic. Both used to often meet each other to consume alcohol. He further revealed that the deceased was having illicit relations with Kalpana Nagalkar, resident of Nagla Bunder, Thane. To get rid of him Kalpana Nagalkar along with others planned to commit murder of deceased. On 17th July, 2020 the co-accused Santosh hatched the plan to eliminate deceased. It was decided that, Santosh would call the deceased for consumption of alcohol and co-accused Mangesh Murudkar would bring poisonous medicine to eliminate the deceased. Co-accused Kalpana Nagalkar agreed to pay Rs.1 Lakh in advance and after eliminating deceased she agreed to pay more amount. While co-accused Santosh Ghugare was in the house of co-accused Geeta Ahrolkar, the applicant came to the house and delivered one bottle of Imperial Whisky waited for 10 minutes and went away. Due to lock-down co-accused Santosh was not able to find any good job, even he had no rations at his house, hence to get fifty thousand rupees, he agreed to commit the crime. Around 6.15 p.m. co-accused Santosh Ghugare gave missed call to the deceased from 9930151545 to 9987798894. Immediately deceased called co-accused Santosh Ghugre and asked deceased to come in the night to consume alcohol and to meet at Nagla Signal. Co-accused

Geeta Ahrolkar served them some Chana snacks which was prepared in her house. Thereafter co-accused Geeta Ahrolkar told both co-accused to kill the deceased on that day itself and only thereafter the accused will get the payment. Thereafter, at about 7.30 p.m. both co-accused Santosh Ghugre and Mangesh Murudkar went ahead to meet the deceased. Santosh took his uncle's Passion motor bike, carried bottle of whiskey and poisonous substances along with them. Both co-accused Santosh and Mangesh on the way decided the plan how to eliminate the deceased. Thereafter, deceased consumed alcohol. Thereafter, they picked up the deceased from Nagle bunder and proceeded towards Gaimukh. After reaching they sat on the beach to consume alcohol. Deceased was already under the influence of alcohol. Mangesh poured poisonous substance in his glass of deceased. Deceased started complaining that he was feeling uneasy and after some time he became unconscious and stopped breathing. Thereafter, co-accused Santosh Ghugre threw all the empty bottles and other material in the creek, picked the deceased, and threw him in an isolated place near by the Gaimukh creek. After committing the offence, both accused reached the house of co-accused Geeta Ahrolkar at about 11.15 and gave details of murder.

3. Learned counsel for the applicant submitted that there is no evidence against the applicant to show his complicity in the

crime. From the tenor of the order passed by the Sessions Court, it is apparent that the allegations against the applicant are vague. The prosecution is relying on the statement of the co-accused which is not admissible in evidence. The applicant is allegedly involved as conspirator. There is no sufficient evidence in support of the alleged conspiracy. It is submitted that the applicant is willing to cooperate with investigation. He need not be subjected to custodial interrogation. The applicant is implicated merely on the ground that he is son-in-law of the co-accused.

4. Learned APP submitted that, during the course of investigation, sufficient evidence is collected against applicant to show his involvement in the crime. Investigation disclose his involvement.

5. I have perused the FIR, the order passed by the learned Sessions Court and the investigation papers. The investigation is in progress. At this stage prima facie the complicity of the applicant is disclosed. During interrogation mother-in-law (co-accused) of the applicant has revealed applicant's involvement. The submission of learned counsel for the applicant cannot be considered at this stage. Considering the fact that the offence is of serious nature. The custodial interrogation of the applicant is necessary. Hence, no case

for grant of anticipatory bail is made out.

ORDER

Criminal Anticipatory Bail Application No. 6 of 2021 is rejected and stands disposed off accordingly.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)