

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 ANTICIPATORY BAIL APPLICATION NO.583 OF 2022

KISHOR SOPANRAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant: Mr Sudarshan J. Salunke
APP for Respondent/State: Mr V.M. Kagne
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CORAM : S. G. MEHARE, J.

DATE : 29th JUNE, 2022

PER COURT :

1. Heard the learned counsel for the applicant and the learned APP for the State at length.
2. The applicant is seeking anticipatory bail in Crime No. 376 of 2019 registered with Police Station, Hatta, Dist. Hingoli for the offences punishable under sections 302, 120-B read with 34 of the Indian Penal Code.
3. The learned counsel for the applicant would submit that in the FIR, the applicant has not been named. However, he was shown absconding and charge sheet was filed in his absence under section 299 of the Cr.P.C. He read the FIR wherein, there are no allegations against the applicant. However, he has pointed out the statement of Tukaram Deshmukh, who narrated the incident of beating the deceased, he also did not state the name of the applicant. But, he has given the description of the person, who he were not known to him.

4. Further, taking the Court through the statement of Piraji Dhabadge, he would submit that the statement of this witness reveals that the present applicant did not join the company of the other persons, who went along with the co-accused. He would submit that the deceased was regularly quarreling with his wife. He was explained many a times to behave properly, but he did not listen. No deadly weapon was used in the crime. As far as the present applicant is concerned, there is no corroborative evidence against the applicant. However, the applicant has been arraigned as an accused without prima facie material against him. The offence of murder has been registered against the accused. Apparently, the offence is serious but, the role played by the applicant should be considered. The prosecution has nothing to arraign the applicant as accused. No identification parade was held to identify the present applicant from the witness Tukaram Ganpat Deshmukh. Considering the material collected by the Investigating Officer, there appears no involvement of the applicant in the incident of beating the deceased. Hence, he may be released on bail.

5. The learned APP would submit that the prosecution has recorded the statement of Tukaram Ganpat Deshmukh and one driver Piraji Ambadas Dhabadge. Besides the statements of these two witnesses, the name of the applicant has been transpired from statement of the co-accused. The offence is serious, and hence, the application deserves to be rejected.

6. While granting the anticipatory bail, the gravity of the offence, role played by the applicant/accused and antecedents to his discredit should have been considered by the Court. The prosecution has to satisfy the

Court, that it has a prima facie material to show the involvement of the accused in the crime. The gravity of the offence may be there but prosecution has no material as to the role played by the applicant. Under these circumstances, though the offence is serious, the request for anticipatory bail may be considered.

7. Considering the entire aspects of the granting anticipatory bail and the facts of the case, though the offence of murder is registered, this Court is of the opinion that for the reasons mentioned above, the applicant is entitled to discretionary relief of anticipatory bail. Hence, the following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant, Kishor s/o Sopanrao Deshmukh be released on bail on executing PB and SB of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety of the like amount, in Crime No. 376/2019 registered with Police Station, Hatta, Dist. Hingoli for the offences punishable under Sections 302, 120-B read with 34 of I.P.C. on the conditions that he shall attend the Police Station as and when called by the Investigating Officer on written notice and shall not tamper with the prosecution witnesses.

[S. G. MEHARE, J.]