

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

919 ANTICIPATORY BAIL APPLICATION NO.970 OF 2022

1. VYANKAT SHIVAJI MANE

2. BANKAT SHIVAJI MANE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Sachin Deshmukh h/f

Mr. Deshmukh Mohit R.

APP for Respondent-State : Mr. K. S. Patil.

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CORAM : S. G. MEHARE, J.

DATE : 27.09.2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent-State at length.

2. The applicants have been arraigned as accused in the crime registered for the offence punishable under Sections 302, 324, 143, 147, 148, 149, 323, 504 and 506 of the IPC with Section 135 of the Maharashtra Police Act.

3. Learned counsel Mr. Deshmukh for the applicants has advanced the argument that it has been alleged that there were 22 persons. They obstructed the deceased and the complainant and allegedly assaulted them. There must have been a large number of injuries on the person of the deceased. He also referred to the injury certificate of the complainant/injured

Akash and pointed out that except for one injury, the other injuries are not grievous. All the applicants are innocent. However, they have been suitably implicated in the crime. The statement of the injured Akash reveals that he had a mobile phone at the time of the incident, but he did not call anybody forthwith for help. It goes to show that the complainant took time to cook a story against the accused and involve the accused as much as possible. He also referred to the statement of one Jayashree and argued that her statement is not relevant. There are contradictions in the statement of the alleged eyewitnesses. He would refer to the statement of the other witnesses and pointed out that particularly, the witness Kishan Kashinath Giri whose vehicle was called to take the deceased to the hospital, has specifically stated that the police had called him at around 5.00 p.m. Hence, the police were aware of the incident. Hence, FIR could have been registered immediately, but the FIR was registered at about 8.00 O'clock. He also vehemently argued that the alleged vehicle involved in the incident was stationary at Killari Office. He referred to the C.C.T.V. camera footage at page No.214 in support of his contention. He also argued that after going through the charge sheet, it appears a case of exaggeration. The principle of innocence would be borne-in-mind while considering the

application of the applicants. The investigation is practically completed, and nothing is to be recovered from the applicants. Ten alleged accused have been arrested. They have cooperated with the investigation. The applicants have an unblemished past. There are no complaints against them that they have intervened in the investigation or tampered with the prosecution witnesses. He also argued that the interested persons have given the statement against the applicants. The case is apparently planted against the applicants. Hence, they may be released on anticipatory bail.

4. Per contra, the learned APP has argued that this case was extensively heard. The Court had expressed the disinclination to grant the bail. Hence, the case was listed for making a statement, but instead of making such a statement, the arguments have been advanced through another lawyer. Be that as it may, he has vehemently argued that the first informant Akash is the best eyewitness to the incident. He is injured and present on the spot of the incident. All the accused were known to the complainant. He has categorically described the FIR in detail, showing the role played by each of the applicants. He has also argued that the injured has suffered a grievous injury. The injury shown in the P. M. report indicates

the aggression of the applicants. The argument of learned counsel Mr. Deshmukh that there would have been more injuries as the assailants were more in number is ill-logical. The cause of death, as per the P. M. report, is “death due to injury with intracerebral bleeding”. The injuries caused to the deceased were severe and grievous. The assault of each accused cannot be counted. The cumulative effect of the assault has to be considered. The prosecution has evidence of an active role played by the applicants. The offence is serious and punishable with life imprisonment or a capital sentence. Though the charge sheet has been filed, the material investigation against the application is remained to be done; therefore, their custodial interrogation is essential. He also pointed out that the Doctor had sent the M.L.C. to the police. The injured was under treatment. After his recovery, his report was taken FIR was registered. Hence, it cannot be said that the FIR is delayed.

5. Perused the charge sheet and the other papers filed by the applicants. It is not a case of the applicants that they are not acquainted with or known to the complainant. The complainant Akash, the injured and son of the deceased, has categorically stated the names of the applicants who were

present on the spot of the incident and armed with sticks. He also stated that they had threatened them, saying that why the deceased gave a report against them in Police Station Aurad. Thereafter, all the accused started beating the deceased with sticks and stones. Due to fear of life, he tried to run away to save his life but accused Siddheshwar Tanaji Mane chased and caught him. He assaulted the injured with a knife. He has sustained the injury. The P. M. report supports the prosecution case that the death of the deceased was caused due to head injury. The statements of the eyewitnesses, though they are family members of the deceased, can not be brushed aside at this juncture. There is ample evidence against the applicants to believe they have played an active role in committing the crime. A serious crime of murder has been committed.

6. Considering the material on record, this Court is of the view that the applicants have no good case for anticipatory bail. Hence, the following order :

ORDER

The application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-