

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.1408 OF 2023

Vikram Ganpat Phadtare	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Priyal G. Sarda, for the Applicant.

Mrs. Rutuja Ambekar, APP for the State-Respondent.

Mr. Kiran A. PI of Malegaon police station, Baramati, Pune.

Mr. Rohan Hogle i/by Mr. Prashant Hagare, for original complainant.

CORAM : AMIT BORKAR, J.

DATED : JUNE 9, 2023

P.C.:

1. The present Applicant is filed under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') in connection with C.R.No.149 of 2023 registered with Malegaon police station, Baramati, Pune for the offences punishable under Sections 302 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. According to the prosecution, there was dispute between the Applicant and the family of victim. There were previous complaint filed by the parties. On 12th April, 2023 at about 8:00 am when the informant along with his brother Vinod Phadtare were proceeding from their field to their home, Vishal Phadtare came there and assaulted Vinod by using big stone. The informant pleaded not to assault his brother. However, Vishal assaulted

Vinod by using stone resulting into grievous injury to him. Due to injury, brain of the deceased came out from the scalp . The incident occurred at around 8:45 am on 12th April, 2023 and the first information report was lodged on 15:14 hours.

3. The Applicant, therefore, filed an application under Section 438 of Cr.P.C. before learned Sessions Jujdge, Baramati, Pune, which has been rejected by an order dated 26th April 2023. Aggrieved thereby, the Applicant has filed the present application.

4. The learned Advocate for the Applicant submitted that the Applicant is working as a constable in police department. He was not present at the site of incident. There is no role attributed to him in the first information report. He has been falesely implicated, therefore, custodial interrogation is not necessary.

5. Per contra, learned APP strongly opposed grant relief to the Applicant mainly on point that the case diary and the statement of witnesses indicates that the Applicant had active participation in conspiring to kill the deceased. He tried to help the main accused to flee from the spot. He being working in police departmen,t there is every possibility that he will be influence witnesses and the investigation.

6. Having considered the submissions made on behalf of parties, in my opinion, prima facie material on record indicates active participation of the Applicant in conspiring to kill the deceased. The material also indicates that the Applicant had called owner of four wheeler vehicle to help the main assailant to flee from the spot of incident. The truth or otherwise of the

statements recorded would be considered in the trial. However, at this stage the material on record indicates that the custodial interrogation of the Applicant is necessary.

7. The apprehension expressed by learned APP that the Applicant may induce or threaten witnesses or tamper with evidence appears to be correct as he is working in police department. Hence, the Anticipatory Bail Application is rejected.

(AMIT BORKAR, J.)