

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO. 1456 OF 2023

Surendra Prasad	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Rajas Naik, for the Applicant.

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

Mr. Kishanrao Khorate, PI, Chinchwad police station.

CORAM : AMIT BORKAR, J.

DATED : JULY 3, 2023

P.C.:

1. In furtherance of order dated 26 June 2023, the investigating officer has filed affidavit. The said affidavit is accepted.
2. Apprehending arrest in connection with C.R.No.38 of 2021 registered with Chinchwad police station, District Pune for the offences punishable under Sections 302, 143, 120-B, 201 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), applicants are seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').
3. According to prosecution, a report was lodged with the respondent police station by one Vishal Dnyaneshwar alleging that on 12 February 2021 at around 9:00 am, the informant instructed his employee to provide water to crops. At around 9:30, his

employee had returned and told him that one unknown person was lying unconscious in the agricultural land having serious bleeding injury. Thereafter, he lodged report with the police station.

4. According to prosecution, during investigation it was revealed that accused persons using a knife cut-down throat of deceased. It is alleged that applicant No.3 and the deceased were having enmity over a land. He, therefore, instructed accused No.2 to commit murder of deceased on payment of Rs.1 lakh. Accordingly, on 12 February 2021, accused Nos.1 and 2 assaulted the deceased and committed murder. The investigating agency, based on statement of accused, alleging the role against applicant No.3 has filed supplementary charge-sheet. As per the statement of co-accused No.2 and applicant No.3 engaged with him for killing the deceased. In so far as the applicant Nos.1 and 2 are concerned.

5. Learned APP on instructions of investigating officer present before the Court, he submits that there is no material to connect as of today applicant Nos.1 and 2 of the said crime. In so far as applicant No.3 is concerned.

6. Learned Advocate for applicant No.3 submits that, one Mukeshkumar Kuswaha is facing prosecution for commission of murder of deceased. Accused No.2 and Mukeshkumar Kushwah are concerned. The applicant No.3 is eye-witness in the prosecution against Mukeshkumar Kushwah and therefore, at the instance of Mukeshkumar Kushwah, applicant No.3 has been

falsely implicated. He, therefore, submitted accused No.2 is being concerned, there are false allegations made against him and therefore, this is a case of false implication.

7. On perusal of material on record, it appears that co-accused No.2 Ratnesh had named applicant No.3 as a person who engaged him to kill the deceased on payment of Rs.1 lakh. The CDR placed on record, indicates that on previous day of death of the deceased and on the day of incident, applicant No.3 was constantly in touch with accused No.2. The amount of Rs.5,000/- as alleged by co-accused in his statement appears to have been transferred, as reflected from the statement of account produced on record. Prima facie, result is that there are three circumstances against the applicant No.3 i.e. i) statement of co-accused; ii) bank entry of Rs.5,000/- and iii) the CDR reports. Prima facie, at this stage, the material is sufficient to warrant custodial interrogation of applicant No.3. Hence, following order:

- a) In the event of arrest in connection with C.R. No.38 of 2021 registered with Chinchwad police station, District Pune for the offences punishable under Sections 302, 143, 120-B, 201 r/w 34 of IPC, applicant No.1.Surendra Prasad and applicant No.2 Mahendra Bhagat, be released on bail on furnishing P.R. bond of Rs.25,000/- each, along with one or two sureties in the like amount.
- b) They shall cooperate with the investigation and make himself available for interrogation whenever required;
- c) They shall not obstruct or hamper the police

investigation and not to play mischief with the evidence collected or yet to be collected by the police.

d) They shall, at the time of execution of the bond, furnish their address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

8. In so far as, the application of applicant No.3 i.e. Munna Kumar Mahendra Prasad is, therefore, rejected.

9. The anticipatory bail application stands disposed of. No costs.

(AMIT BORKAR, J.)