

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2462 OF 2021

Sameer Maruti Dorge ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Ashok Mundargi, Senior Advocate alongwith Mr. Sandeep Salunkhe
for the Applicant.

Mr. P.H. Gaikwad Patil, APP for the State.

Mr. Ranjeet Pawar for the complainant/first informant.

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CORAM : N.R. BORKAR, J.

DATED : 31 MARCH 2023

P.C. :-

1. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 693 of 2021 registered at Yavat Police Station, for the offences punishable under Sections 302, 143, 147, 148, 149 of Indian Penal Code.

3. I have heard the learned Senior Counsel for the applicant, the learned APP for the State and the learned Counsel for the complainant.

4. On 29 October 2021, this Court passed the following order :
“Heard learned Counsel for the applicant and learned APP.

2 *The applicant is apprehending arrest in C.R.No. 693 of 2021 registered by Yavat Police Station, Pune, for the offences under Sections 302, 143, 147, 148, 149 of the Indian Penal Code.*

3 *It appears from the FIR dated 14/08/2021 that on account of earlier dispute accused named in the FIR, assaulted the son of informant by means of iron rod and stick on abdomen, hands, legs and eyes and caused his death.*

4 *It may not be out of place to mention here that while lodging the FIR dated 14/08/2021, the name of the present applicant was not given. It is only after one month i.e. on 14/09/2021 the informant gave supplementary statement and thereupon the present applicant came to be roped in.*

5 *There is observation of the learned trial Court at para 5 to the effect that “on 14/09/2021 the informant has given supplementary statement to the police wherein he stated that on 13/08/2021 deceased Mangesh told about the incident that above three accused with Sameer Dorge and Ajit Dorge has also assaulted him. The informant further stated that because of mental stress, he skipped to mention the names of Sameer Dorge and Ajit Dorge in the FIR. Based on the said supplementary statement, police have added name of the present applicant in the said crime”. From the observations, it is more than clear that on 13/08/2021 the informant was told about the role of the present applicant and despite that while lodging the report on 14/08/2021, he failed to narrate the complicity of present applicant in the alleged crime. Even assuming the explanation given by the informant to be correct, still he had ample opportunity to approach the concerned police station immediately thereafter within reasonable time and inform the investigation officer about the role of applicant. However, the informant did not do so and waited for almost a month. In my considered opinion, this circumstance is sufficient to grant ad-interim protection to the applicant. Hence, the following order.*

ORDER

(i) *In the event of arrest of the applicant/accused – Sameer Maruti Dorge in C.R.No. 693 of 2021 registered with Yavat Police Station, Pune, for the offences punishable under*

sections 302, 143, 147, 148, 149 of Indian Penal Code, the applicant be enlarged on bail on his furnishing PR & SB in the sum of Rs.20,000/- with one or two sureties.

(ii) The applicant/accused shall make himself available for interrogation by a police officer of concerned police station as and when required.

(iii) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him from disclosing such facts to the Court or to investigating officer.

(iv) Issue notice to the concerned police station, returnable on 3rd December, 2021.

(v) This order shall remain in force till the next date.

(vi) Parties and all concerned to act on authenticated copy of this order duly issued by Sheristedar of this Court.”

5. According to the prosecution, the alleged incident of assaulting the deceased took place on 9 August 2021. After the alleged incident, the deceased was admitted in Sassoon Hospital. The complainant, who is the father of the deceased, at the time of admitting the deceased in the hospital, stated the cause of injuries sustained by the deceased to be accidental fall. The deceased was thereafter discharged on 12 August 2021, however, died on the very next day i.e. on 13 August 2021, due to certain internal complication caused by the injuries sustained by him. The FIR thereafter came to be lodged on 14 September 2021. The applicant was however, not named in the FIR as assailant though according to the complainant, the deceased had disclosed the names of the assailants to him on 12 August 2021.

6. Considering the over all facts and circumstances of the case, I am inclined to allow the present application. In the result the following

order is passed :

- (i) The interim order passed by this Court dated 29 October 2021 is hereby confirmed.
- (ii) The applicant shall attend the concerned police station as and when called by the Investigating Officer and shall co-operate in the investigation.
- (iii) The applicant after filing of the charge-sheet, shall attend the concerned police station, once in a month i.e. on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of trial.
- (iv) The observations in this order are prima facie and the trial court shall decide the matter without being influenced by it.
- (v) The application is disposed of.

(N.R. BORKAR, J.)