

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2509 OF 2023

Ankit Tulshidas Patel ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Kedar Patil, for the Applicant

Mrs. A.A. Takalkar, APP, for the Respondent/State.

Mr. Rothe, PSI, Ganeshpuri police station present.

CORAM : N. J. JAMADAR, J.

DATE : SEPTEMBER 07, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant has approached this Court while an application for pre-arrest bail awaits adjudication before the learned Additional Session Judge, Thane. It seems that the learned Additional Sessions Judge did not grant interim pre-arrest bail and posted matter for reply of the prosecution.

3. Mr. Kedar Patil, learned counsel for the applicant, submitted that in case of the co-accused who is similarly circumstanced, this Court has granted pre-arrest bail in ABA No. 2141 of 2023. It was submitted that the homicidal nature of death itself is in issue.

4. In ABA No. 2141 of 2023 by an order dated 17th August, 2023 this Court had granted interim protection to the co-accused Harshwardhan Patil. This Court, inter alia, observed as under:-

3] Initially, the offence is registered under Sections 324, 323, 504, 506 read with 34 of Indian Penal Code, 1860 [“IPC”] with Ganeshpuri Police Station at C.R.No. 58 of 2023 on 15th May, 2023. It is on the complaint of the injured Pranay Ravindra Gaikar who later on succumbed to the injuries on 31st May, 2023. Later on, an offence under Section 302 of IPC is added.

4] An anticipatory bail is asked on two grounds. One is medical evidence does not support the cause of death due to injuries and second, the First-Informant has not named the present Applicant in the FIR and story now put up is something by way of improvisation.

5] Learned APP pointed out the following materials :-
 (a) A statement of one Vishal Hon recorded on 15th June, 2023 wherein he has named the present Applicant also assaulting the deceased.
 (b) The C.C.T.V., footage panchnama in which the present Applicant is shown as coming on the spot on motorcycle.

6] I am inclined to grant an interim protection today. It is for the reason that yet an opinion from the doctors is awaited. It is on the point whether the cause of death can be attributed to the injuries caused due to assault. After the assault till death, he was transferred to various hospitals. This is a crucial material.

5. Prima facie, the applicant appears to be similarly circumstanced. The name of the applicant does not find mention in the first information report.

6. In the circumstances, since, the application is still pending before the Court of Session, it would be appropriate to grant limited protection to the applicant.

7. Hence, the applicant shall not be arrested till 15th September, 2023.

8. Application stands disposed.

9. The learned Additional Sessions Judge shall decide the application for pre-arrest bail in accordance with law without being influenced by any of the aforesaid observations.

(N. J. JAMADAR, J.)