



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 743 OF 2024
WITH CRIMINAL APPLICATION NO. 1926 OF 2024

DIPAK RAMNIVAS SHILLAK
VERSUS
THE STATE OF MAHARASHTRA

Mr. M. R. Jadhav, Advocate for the applicant
Mrs. M. L. Sangit, APP for the respondent/State
Mr. S. B. Bhapkar, Advocate for the informant

CORAM : R. M. JOSHI, J.
DATE : 4th OCTOBER, 2024

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 107/2024 registered with Kaij Police Station, District Beed for the offences punishable under Sections 302, 120-B, 107 r/w 34 of the Indian Penal Code.
2. The first informant Sagar reported to the police that there are disputes between the informant's family on one hand and family of the applicant on other. It also records that Civil Suit No. 484/2018 was filed before the Civil Court, Kaij interim relief of injunction was granted in favour the father of informant and for this reason Ramniwas, Ratan, Dipak and Rohit were annoyed with father of informant and others. They used to abuse parents of the informant and threaten them to kill if any

complaint is made to the police. He also refers to the incident in which Ratan, Dipak and Rohit came to their shop and threatened father of the informant for withdrawal of the suit. They alleged to have man-handled father of the informant and also threatened him that if the suit is not withdrawn they will commit murder of his father. He further states that the hearing of the said proceeding before the Civil Court was on 22/02/2022. Father of the informant however did not withdraw the said suit and sought adjournment. According to him, on 05/03/2024 his father as usual went to the temple in the morning at around 7.40 a.m. He was followed by accused Rohit alias Luckky to temple. In the open area near the temple he caused assault on him with sattur. He caused number of injuries on his person and ran away from the spot. Father of the informant died on the spot. It is alleged in the first information report that considering the disputes between the parties with regard to the property and for not withdrawing the suit filed by the father of the informant, he was killed by Rohit and was instigated to do so by the other accused.

3. Learned counsel for the applicant submits that there is no evidence in order to indicate that the applicant had participated in actual assault or has aided or abetted the commission of the said crime. In so far as the allegation against the applicant with regard to hatching

conspiracy, it is his submission that the statement of Ajay Jadhav is wholly unreliable and has been recorded belatedly. According to him there is no material to indicate that any such conspiracy was ever hatched. By referring to the statement under Section 161 of the Code of Criminal Procedure it is contended that before police it was stated that the said conspiracy was hatched prior to a month of the occurrence of the incident whereas before the JMFC while recording the statement under Section 164 of Cr.P.C. it is stated that prior to four days of the incident he has heard discussion of all accused person eliminating informant's father. Thus, it is his submission that in view of the fact that there are disputes between the parties over the immovable property, false implication of entire family is sought to be done. It is submission that charge-sheet has been filed against the co-accused and as such the investigation is practically over.

4. Learned APP as well as the learned counsel for the informant opposed the application by citing that seriousness of the crime. It is the submission of the learned counsel for the informant that since more than 19 injuries were caused on the deceased, it cannot be said that the assault has been caused by one person. It is further submission that the witness Ajay is the friend of the co-accused and therefore his statement with regard to the conspiracy becomes acceptable at this

stage. Learned APP also drew attention of the Court to the statements recorded during the course of investigation. She pointed out statements of the sisters of deceased which also state about the threats being issued by the applicant and others for eliminating father of the deceased. Learned counsel for the informant has opposed the application also on the ground that after obtaining interim relief, the threat was issued by the applicant to the informant.

5. In so far as the occurrence of incident dated 05/03/2024 is concerned, there are eye witnesses in whose presence incident of assault on deceased has occurred. Even according to the case of the prosecution, co-accused Rohit with weapon followed deceased to temple and caused assault on the deceased. There is absolutely no evidence on record to indicate the presence of the applicant at the spot of incident or his participation in the said assault.

6. As far as the allegation of conspiracy being hatched by the applicant and other co-accused to kill deceased is concerned, the statement of Ajay recorded by police as well as before the JMFC, are apparently inconsistent. At one stage he says that he has heard the said the accused persons talking about eliminating the deceased four days prior to the incident, before the police the same is said to have occurred a month prior to the incident. Apart from the fact that there are

inconsistencies in the statement, his statement on the face of it is not reliable. This Court finds substance in the contention of the learned counsel for the applicant that the planning to commit murder would never be done in presence of third person. The fact cannot be ignored that there are disputes between the informant's side and applicant's side over the immovable property. A perusal of the first information report itself indicates so. Thus the possibility of the false implication is not totally ruled out.

7. In so far as the further investigation if any is concerned, appropriate direction to the applicant to co-operate the investigation agency is sufficient for further investigation, remained if any. The Courts often come across with filing of complaints against accused at instance of informant once anticipatory bail application is filed. There is no report placed before this Court by Investigating Officer to show that any substance was found in NC complaint. Applicant has no criminal history. In absence of any material connecting him with the crime, there would be no reason or justification to reject his application to protect his liberty.

8. Hence, application is allowed in terms of interim order dated 15th May, 2024. Pending application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp