

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

ANTICIPATORY BAIL APPLICATION NO.1185 OF 2024

Bhagyoday Gorakh Sakpal Applicant
versus
The State of Maharashtra Respondent
.....

- Mr.Ajit J. Kenjale a/w Sohil M.Gulabani a/w Sai Rajendra Kadam, Advocate for Applicant.
- Smt. Madhavi H. Mhatre, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 29th APRIL, 2024**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.38/2024, dated 16/02/2024, registered with Wathar Police Station, Satara, under sections 302 of the Indian Penal Code.
2. Heard Mr.Ajit J. Kenjale, learned counsel for the Applicant and Smt. Madhavi H. Mhatre, learned APP for the State.
3. The FIR is lodged by one Laxmi Sapkal, who is the mother of Bhagwan. Her case is that on 16/02/2024 some unknown person had assaulted Bhagwan on his head with a

heavy iron instrument and thereby committed his murder. On this basis, the FIR is lodged. In this case, one Sushant Salunkhe is arrested by the investigating agency.

4. Learned counsel for the Applicant submitted that the Applicant is serving in the Army and he was in Jammu & Kashmir when this incident took place. He submitted that there is no connection of the present Applicant with the offence of murder.
5. Learned APP opposed these submissions. According to her, the prosecution case is that on the date of incident, the Applicant had called the accused Sushant and had a conversation with him indicating that it was high time that the deceased was eliminated because he was tarnishing the family name by behaving unnaturally with the boys in the village. She submitted that considering the gravity of the offence, the investigating agency needs full opportunity to investigate the case by arresting the Applicant. She relied on the statement of one Vivek Lembhe.

6. Learned counsel for the Applicant relied on the 'say' filed by the investigating agency before the Sessions Court while opposing the application for anticipatory bail. He submitted that in that particular reply the prosecution's theory is entirely different and the murder was the result of personal quarrel between the arrested accused Sushant and the deceased.
7. I have considered these submissions and I have read the statement of aforementioned Vivek Lembhe. I have also perused the reply filed by the investigating agency. A copy of the same is taken on record and marked 'X' for identification.
8. The statement of Vivek Lembhe recorded on 16/02/2024 states that he had accompanied Sushant to Sushant's agricultural field. At about 08.00 a.m. they had started working in that field. At that time, Sushant had received a phone call. He had kept that mobile phone on the ground and switched on the speaker. That is how this witness could hear the conversation. The deceased Bhagwan was having unnatural

physical relations with the boys in the village, thereby he was tarnishing his family's image. The Applicant had allegedly said that the deceased had to be eliminated. It was further mentioned that when he would return to the village they would kill him.

9. Learned APP relied on this statement heavily. First of all, this statement does not clearly show that the Applicant had given orders or even suggested to Sushant to commit murder of the deceased on that day itself. On the other hand, the reply submitted by the investigating agency before the Sessions Court shows that the prosecution story is different. The investigation has revealed that Sushant had some altercation with the deceased on the ground of demand made by the deceased in respect of physical relations. Sushant got angry and assaulted the deceased with iron rod. This story is completely different. It shows the involvement of the arrested accused Sushant alone.

10. At this stage, the investigating agency will have to consider which of the stories is true and therefore the

investigation is needed in that direction. At this stage, the learned counsel for the Applicant has made out a case for grant of ad-interim relief.

11. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.38/2024, dated 16/02/2024, registered with Wathar Police Station, Satara, till the next date, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station from 20/05/2024, 21/05/2024 and 22/05/2024 between 01.00 p.m. to 05.00 p.m. and thereafter as and when called and shall cooperate with the investigation.
- (iii) This order shall operate till 26/06/2024.
- (iv) Stand over to 26/06/2024.

(SARANG V. KOTWAL, J.)