

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

ANTICIPATORY BAIL APPLICATION NO.1140 OF 2024

Vasant Tulshidas Bhagde Applicant

versus

The State of Maharashtra Respondent

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- Mr. Shubhankar Avhad (appeared through VC), Advocate for Applicant.
- Smt. Madhavi H. Mhatre, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 30th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.9/2022, dated 29/01/2022, registered with Igatpuri Police Station, Nashik Rural, under sections 302, 307, 452, 427, 143, 147, 148, 149, 323, 504, 509 of the Indian Penal Code and under section 37(3), 37(1), 25(4) of the Maharashtra Police Act.

2. Heard Mr. Shubhankar Avhad, learned counsel for the Applicant and Smt. Madhavi H. Mhatre, learned APP for the State.

3. The FIR is lodged by one Asha Manuel. She has stated about her antecedents and enmity between her family and others. The informant, her son and others were in custody. After they were released, this incident had occurred. On 28/01/2022, at about 09.30 a.m. to 10.30 a.m., about 10 to 15 two wheelers came to the house of the first informant. They started abusing and pelting stones and then they went away. The informant and others decided to lodge a complaint to the police station. Therefore, they were going towards the police station between 03.30 p.m. to 04.30 p.m. At that time, they were told that again some boys were going towards their house and they were planning to assault the family members and damage their house. Therefore, the informant's sons and his friends including one Rahul Salve started going towards their house. In the meantime, the accused caught them and assaulted them with weapons. Rahul was assaulted on his face, head, ribs and all parts of his body by one Hari Bhandari. He succumbed to his injuries. Francis was assaulted by Sonu Gupta with knife. They were atleast 30 to 40 persons. All of them took part in the assault.

They caused damage to the property and then they went away.

On this basis, the FIR is lodged.

4. Investigation in this case is over and charge-sheet is already filed. There are 80 persons shown as the accused. The Applicant is shown as one of the absconding accused.

5. Learned counsel for the Applicant submitted that in the entire charge-sheet there is no mention of the present Applicant. There is no enmity between the Applicant and the deceased or even with the group of the deceased and the Applicant. There is absolutely no material against the present Applicant. The Applicant was always available. He was residing at the same address for 30 years. Not even once, the police visited to arrest him. He submitted that for non-existing material, the Applicant is sought to be arrested. Therefore, he needs protection. His anticipatory bail was rejected by the Sessions Court and even in the High Court the police are opposing this anticipatory bail application. Therefore, he has reasonable apprehension of being arrested. In this situation, he needs to be protected u/s 438 of Cr.PC.

6. Learned APP produced one statement which is not annexed in the charge-sheet attached to this memo. That statement is of one Pundalik Bhagade. It is recorded on 08/03/2022. She submitted that there is a reference to the Applicant's presence in that statement.

7. I have considered these submissions and that statement as well. The deceased had suffered many injuries all over the body. The cause of death is mentioned as 'Hemorrhagic shock due to multiple stab wounds over chest with head injury'. The injured Francis had suffered 7 injuries including the serious injuries. Therefore, undoubtedly the offence is very serious. There are eyewitnesses including the injured Francis. They are John @ Chhota Papa, Sanju @ Sonu Raut, the first informant, Bhushan Ahire, Pushpa Manuel and Lata Manuel. None of these eyewitnesses has named the present Applicant.

8. As far as the statement of Pundalik is concerned, he has stated that his son Mahesh had taken his two wheeler for

going to college on 28/01/2022. At about 11.30 a.m. he called this witness and told him that he could not return home because there was some incident at Gaikwad Nagar at 11.30 a.m. and his two wheeler was at that place. He could not bring it back. After some time, Mahesh came back and told him that in that incident, Ritesh Walkunde, Mayur Bhagde, Sandip Rakshe and the present Applicant along with the other boys came and had a fight with the other group. This statement relates to the incident that had taken place in the morning. The allegations are general and vague. The main incident of assault on the deceased had taken place after 01.00 O'clock. Therefore, there does appear to be direct involvement of the present Applicant in the first incident only. So far as the offence of murder in another incident is concerned, none of the eyewitnesses has named the Applicant. Therefore, at this stage, there is hardly any material against the present Applicant warranting his custodial interrogation. In this view of the matter, the Applicant can be protected u/s 438 of Cr.P.C. He will have to attend the trial Court.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.9/2022, dated 29/01/2022, registered with Igatpuri Police Station, Nashik Rural, 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 all the dates in the trial Court unless prevented by a reasonable cause.
- (iii) The Applicant shall not tamper with the prosecution evidence.
- (iv) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)