



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 ANTICIPATORY BAIL APPLICATION NO. 1451 OF 2018

1. Rafik Rashid Khatik
2. Rauf Rashid Khatik
3. Ahmad Usman Pinjari

Versus

The State of Maharashtra and Anr.

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Advocate for Applicants : Mr. R.M. Deshmukh
APP for Respondents/State: Mr. A.P. Basarkar
Advocate to assist the APP : Mrs. S.T. Kazi

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WITH
CRIMINAL APPLICATION NO. 102 OF 2019

Shaikh Farooq Shaikh Shamsuddin

Versus

1. Rafik Rashid Khatik
2. Rauf Rashid Khatif
3. Ahmed Osman Pinjari
4. The State of Maharashtra

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Advocate for the Applicant: Mrs. S.T. Kazi
Advocate for Respondent Nos. 1 to 3: Mr. R.M. Deshmukh
APP for Respondent No.4-State: Mr. A.P. Basarkar

ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 69 OF 2019

Sameer Rauf Khatik

Versus

The State of Maharashtra and Anr.

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Advocate for Applicants : Mr. R.M. Deshmukh
APP for Respondents/State: Mr. A.P. Basarkar
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CORAM : V. K. JADHAV, J.
DATED : 24th JANUARY, 2019

PER COURT:-

1. Heard the learned counsel appearing for the applicant in Criminal Application No.102 of 2019. For the reasons stated in the application, the same is allowed in terms of prayer clause "B" and disposed of accordingly.
2. The applicants in Anticipatory Bail Application No.1451 of 2018 and Anticipatory Bail Application No. 69 of 20019 are seeking pre-arrest bail in connection with Crime No. 369 of 2018 registered with Shahada Police Station, District Nandurbar for the offences punishable under Sections 302, 324, 323, 452, 143, 147, 148 and 148 of IPC. Their application with similar prayer bearing Bail Application No.268 of 2018 and 260 of 2018 came to be rejected by the Additional Sessions Judge, Shahada by order dated 20.12.2018 and 12.12.2018.
3. The learned counsel for the applicants in anticipatory bail application no. 1451 of 2018 submits that as per the allegations made in the complaint, the elder brother of the

informant namely Mohd. Hanif was beaten with fist and kick blows on his abdomen and chest. The informant and his nephew were also beaten by the applicants and co-accused persons. However, as per the allegations made in the complaint, the co-accused who has beaten the nephew of the informant with fighter, came to be released on bail by this Court after his arrest. He submits that there were no external injuries on the person of the deceased and he died because of the respiratory failure. The antecedents of the applicants are clear. He submits that the applicants may be released on anticipatory bail.

4. So far as the applicant Sameer in anticipatory bail application no.69 of 2019 is concerned, learned counsel submits that it has been alleged that he has extended the beating to Shoyeb by a hockey stick. The applicant is taking education in Civil Engineering 3rd Year. His antecedents are clear. The said injured has not sustained any grievous injury. So far as the allegations as against the co-accused about the beating extended to the deceased are concerned, this applicant has no concern with the same and he may also be released on anticipatory bail.

5. Heard learned APP assisted by Mrs. M.T.Kazi, learned advocate. Learned APP has strongly resisted the anticipatory bail application no. 1451 of 2018 on the ground that names of the applicants therein are mentioned in the FIR with specific role attributed to each of them. They have extended the beating to the deceased with fist and kick blows and as a result thereof, Mohd. Hanif died. He submits that the applicants may not be released on anticipatory bail. Learned APP has also strongly resisted the another application seeking anticipatory bail on the ground that the applicant therein, namely, Sameer has used the hockey stick in the assault and thus his custodial interrogation is required. He may not be released on anticipatory bail.

6. On careful perusal of the investigation papers, particularly the postmortem notes and the opinion as to the final cause of death given by the concerned Medical Officer, who has conducted the postmortem examination, it appears that the homicidal death itself is in question. Except the beating by fist and kick blows extended to the deceased by the applicants in anticipatory bail application no. 1451 of 2018, there are no other allegations against them. Their antecedents are clear. So far as the applicant Sameer in

another application is concerned, as per the bonafide certificate placed on record, he is taking education in Civil Engineering 3rd Year. His antecedents are clear. He has no concern with the allegations about the commission of murder. The injured had also sustained simple injuries. Thus, considering the entire aspect of the case, I am inclined to grant anticipatory bail to the applicants in both the applications. Hence, the following order:

ORDER

- I. The anticipatory bail applications are hereby allowed.
- II. In the event of arrest of the applicants in anticipatory bail application no. 1451 of 2018 i.e. Rafik Rashid Khatik, Rauf Rashid Khatik and Ahmad Usman Pinjari and the applicant in anticipatory bail application no. 69 of 2019 i.e. Sameer Rauf Khatik, in connection with Crime No. 369 of 2018 registered with Shahada Police Station, District Nandurbar for the offences punishable under Sections 302, 324, 323, 452, 143, 147, 148 and 148 of IPC, they be released on bail on their furnishing P.B. of Rs.15,000/- (Rupees Fifteen Thousand only) each, with one surety each of the like amount on the following conditions;

- a. The applicants shall not tamper with the prosecution evidence in any manner.
- b. They shall not cause interference in day to day life of the complainant and the other prosecution witnesses.
- c. Except the applicant in anticipatory bail application no. 69 of 2019 namely Sameer Rauf Khatik and other applicants shall attend the concerned police station for a period of three months on every Sunday between 8.00 am to 11.00 am.
- d. The applicant in anticipatory bail application no. 69 of 2019 namely Sameer Rauf Khatik shall attend the concerned Police Station as and when required by the Investigating Officer.

III. The anticipatory bail applications are disposed of accordingly.

(V. K. JADHAV, J.)

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