

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1113 OF 2017

Nasir s/o. Dastagir Shaikh **....Applicant.**

Versus

The State of Maharashtra **....Respondent.**

Mr. Shaikh Shabbir K., Advocate for applicant.

Mr. R.V. Dasalkar, APP for respondent/State.

CORAM : T.V. NALAWADE, J.

DATED : March 29, 2017.

ORDER :

1. The application is filed for bail. Both the sides are heard.

2. The chargesheet is filed against the present applicant and others for the offences punishable under sections 307, 34 of the Indian Penal Code and section 3 r/w. 25 of the Arms Act.

3. The complainant is worker of political party, Bhartiya Janta Party. It is his case that many persons have enmity with him as he is doing social work and he is unearthing offences of many persons in the society. As he is feeling danger to life, the

State Government has given him armed bodyguard and armed bodyguard remains with him.

4. The alleged incident took place on 27.7.2013 at about 9.30 p.m. It is the case of complainant that when he was proceeding to his residential place on his motorcycle from his office with his bodyguard viz. Vishal Pandore, one motorcycle intercepted him after coming from opposite direction and there were three persons on this motorcycle. He has made allegations that out of these three persons, two persons fired bullets from pistol at him, however, bullets did not hit him. It is his case that he had seen two persons and he may be in a position to identify them. It is his case that some persons tried to give chase to these three persons, but these three persons ran away on their motorcycle after firing two bullet shots at him.

5. The papers of investigation show that there is statement of aforesaid bodyguard showing that he was not present in the company of the complainant when the alleged incident took place. The learned APP is placing reliance on the statement of one Sameer Sayyed dated 28.4.2016 in which Sameer has stated that on that day, he was in the company of the present applicant. Sameer has stated that first, the present

applicant had made inquiry about the address and location of the complainant and after the incident, he had made extra judicial confession.

6. The submissions made show that the other two persons, who were allegedly present on the motorcycle, were identified during test identification parade, but they are granted bail. The statement of Sameer Sayyed was recorded after more than two and half years of the incident and in the statement, there is no explanation with regard to delay. The present applicant was not identified by the first informant. The report of Ballastic Expert shows that there were two empty bullets cartridges, which were fired and found on the spot of offence were fired from two different pistols. The papers show that no pistol came to be recovered. Thus, it can be said that only the complainant is saying that two bullets were fired at him and the best possible witness i.e. bodyguard is not there in support of his case.

7. The submissions made show that applicant came to be arrested due to some information supplied after interrogation and he has been behind bars since 12.1.2017. Due to these circumstances, this Court holds that it is not desirable to keep

the applicant behind bars till the disposal of the case filed against him.

8. In the result, the application is allowed. The applicant is to be released on bail on his furnishing PR and SB of Rs. 25,000/- (Rupees twenty five thousand). He is not to tamper with the prosecution witnesses. He is not to commit similar offence.

[T.V. NALAWADE, J.]

ssc/