

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

CRIMINAL BAIL APPLICATION NO.1720 OF 2017

Faruk Gaffar Shaikh

... Applicant

vs.

The State of Maharashtra

... Respondent

.....

Mr. Aniket Nikam i/b. Mr. Aashish Satpute for the Applicant.

Ms. A. A. Takalkar, APP for the State.

CORAM : T. V. NALAWADE, J.

DATE : 28.08.2017.

P.C.:

1. The application is filed for bail in C.R. No. 104 of 2016 registered with Bibwewadi Police Station, Pune for the offences punishable under Section 307 of the Indian Penal Code and under Section 3 (25) of Arms Act. As the charge-sheet is filed, papers of investigation were available for perusal. Even the report of Ballistic Expert is shown to this Court.

2. The material collected against the applicant shows that in the past first informant Nitesh Patange was the friend of present applicant. In November 2015 the disputed started over one incident and the relations became strained. Right from November 2015 many times applicant had given threats of life to the first informant. The first informant wanted to patch up the same and so on 04.05.2016 in the noon time he approached the present applicant and asked as to why he was behaving that way. The applicant again picked up quarrel and then said that on the same day he would finish the first informant. After about 10 to 15 minutes when the first informant was present near one shop applicant went there, and he took out firearm aimed the firearm at

the chest of the first informant and by saying that now he was finishing the first informant he fired a shot. He was pushed aside by injured. Due to witness that, applicant missed the aim and shot was in air. The applicant fired another shot but this time the bullet hit on the right palm of the said friend and then allegedly hit one boy about age 5 years. After that applicant ran away on his two wheeler. From that time till December 2016 applicant was absconding. The material collected shows that the spot panchnama was prepared on 05.05.2015 one shell of the bullet was found on the spot. One bullet was also found. Blood was also found there showing that persons were injured on this spot. During course of investigation the country made pistol came to be recovered from the present applicant. The pistol and the aforesaid bullet were sent to ballistic expert. The report of ballistic expert shows that the aforesaid bullet (shell) recovered on 05.05.2016 was fired from the pistol which was recovered at the instance of the present applicant.

3. The learned counsel of the applicant submitted that there is no record to show that the injury found on person was bullet injury and such opinion is not collected. Though such opinion is not there at present, such opinion can be collected at any time and even in witnesses box the doctor who issued MLC can give opinion regarding the injury. The learned counsel for the applicant submitted that no injuries were caused to the boy age about 5 years whose name is mentioned in FIR. The facts remain that he had procured the country made pistol and he had fired two shots by using this pistol. In the past he had given threats of life to the complainant. Due to these circumstances, it can be said that there will be danger to the life of the first informant if the bail granted to the present applicant. Further there is a possibility of absconding of the present applicant as he was not available for about 7 months from the date of incidence. The learned APP drew attention of this Court to the MLC in respect of the boy Samarth Londhe. It shows that he

sustained grade II compound fracture left upper 1/3 and middle 1/3 tibia. Apparently injury sustained by the boy was not due to fire arm. Due to aforesaid circumstances, this Court holds that it is not possible to grant relief in favour of the applicant. The application is rejected. The trial court is expected to dispose of the matter within six months from the date of receipt of this order. After that period there will be liberty to the applicant to come to this court for bail.

(T. V. NALAWADE, J.)