

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.99 OF 2019

Amjad Ismail Mujawar, Age 44 years,
Occ.Business, R/o.Triveni Sangam CHS Ltd;
1st Floor, 105, Gandavali Hill, Azad Road,
Andheri (East), Mumbai-400 069.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Nihar S. Ghag for applicant.

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

Mr.Vijay Jadhav, PSI, Andheri Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th January 2019

PC :

1. This is an application for bail in connection with CR No.291 of 2016 registered with Andheri Police Station for offences under Sections 307, 120-B r/w 34 of Indian Penal Code, and under Sections 3, 25 and 27 of Arms Act. The applicant was arrested on 24th May 2016.

2. The case of prosecution is that the FIR came to be registered on the complaint of one Vithoba Sugave against applicant and others. The complainant is an auto rickshaw driver and he plies his rickshaw between 9 am to 3 pm. He knows Mujawar, his father and two brothers Amjad and Nasir. In 2014 Amjad had picked up quarrel with complainant. Hence a complaint was lodged with police and Amjad (applicant) was arrested. Since then relationship between them was strained. It is the case of complainant that about two to

three months back there was a meeting of society and one person had slapped Mujawar in the meeting. It was suspected that at the instigation of complainant the brother of applicant was slapped. There was dispute between him and other society members. On 20th May 2016 the complainant left his house at about 2030 hours. He was talking to the owner of building material supplier. The complainant noticed that Firoz and others were standing in front of the gate of their building and they were looking at him. At 2045 hours the applicant had allegedly approached him. There was conversation between them and he pointed out pistol at complainant. The complainant then attempted to run away from the place. The accused fired one round towards complainant but it did not hit him. The applicant fired second round due to which the complainant received injury near vertebra. The FIR was registered immediately thereafter. Investigation is completed and charge sheet is filed.

3. Learned counsel for applicant submitted that the applicant has been falsely implicated in this case. There was enmity between the applicant and the complainant's family. There was no intention to commit murder. The applicant is in custody from the date of arrest. In the history of assault given to the doctor, it was stated that the injury was caused by unknown person. There is improvement in the version of complainant. In the subsequent version it is stated that two fire arms were used in the commission of crime. Improvement is deliberate. It is submitted that on account of enmity the applicant was threatened of dire consequences by the complainant and a false case has been lodged against him.

4. Learned APP submitted that role has been attributed to the applicant. The facts of the present case would indicate that there was intention to commit murder. Several cases are registered against applicant. It is submitted that in the event of grant of bail to the applicant, he would tamper with evidence. Learned advocate for applicant has, however, submitted that he has been acquitted in fourteen cases and in other cases he has been granted bail. It is pertinent to note that the applicant is in custody for a period of about thirty one months. The trial has not commenced.

5. Considering the factual matrix of the case and prolonged detention of the applicant, on certain terms and conditions, bail can be granted to the applicant.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.99 of 2019 is allowed and disposed off;
- (ii) The applicant is directed to be released on bail in connection with CR No.291 of 2016 registered with Andheri Police Station, the applicant be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall stay out of jurisdiction of Andheri Police Station till conclusion of trial;
- (iv) The applicant shall report nearest police station where he would reside, once in a month on every first Saturday between 11 am and 1 pm;

- (v) The applicant shall furnish details of residence and mobile number to the investigating officer after he is released on bail;
- (vi) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason;
- (vii) The applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of six weeks.

(PRAKASH D. NAIK, J.)

MST