

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

BAIL APPLICATION NO.143 OF 2019

Shukracharya Basvant Madale	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

Ms.Yashasvita Apte for the applicant.
Mr.M.G.Patil, APP for respondent-State.

CORAM : P.N. DESHMUKH, J.
DATE : 1st April 2019

P.C.:

- . Heard learned counsel for applicant and learned APP.

2. It is submitted that applicant is in no way concerned in present crime but is suspected by complainant as he had encroached upon the land of which he suspected that complainant had made complaint to Corporation. Suspecting complainant as such is alleged to have fired gun shot on his head by country-made revolver. It is specific case of applicant that he is falsely involved as at the time of incident, he was lying nearby spot on footpath in intoxicated state and as such is involved in the crime.

3. Learned APP opposed application on the ground that there is direct evidence against applicant as revealed from FIR since his name is mentioned in report of which contents are corroborated by Sumeet Swami, eye-witness along with medical certificate of Hospital and Research Center and has therefore, submitted that application be rejected.

4. Perusal of report would reveal about complainant suspecting applicant to have committed assault on him as complainant has lodged complaint against applicant of his encroaching upon Government land thus, name of applicant appears in report since suspected for this reason.

5. Similarly, perusal of eye-witnesses' statements would reveal that at the time of incident, one person came on two wheelers with helmet. Admittedly, no identification parade is held in present crime but according to eye-witnesses' statements, name of said person as that of applicant was revealed to him from police. Though according to learned APP, one country-made revolver is recovered and sent to ballistic expert forensic report of which is still awaited. At this stage, there is nothing to establish if weapon seized is used in crime nor identification of application is established as no test identification parade is held.

6. Having considering the fact that charge-sheet is filed and as since prima facie, there is nothing to establish involvement of applicant as even no vehicle to be occupied by applicant is verified if is owned by him and as from eye-witnesses' statements, he had stated name of applicant as disclosed to him by police. There is no purpose to keep applicant behind bars from this evidence. Application is thus liable to be allowed by imposing suitable conditions as per order below:-

ORDER

- (i) Applicant in C.R. No.0374 of 2018 registered with Chaturshrungi Police Station, Pune registered for the offences punishable under Section 307 of IPC and Section 3(25) (27) of Indian Arms Act, 1969 shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount;
- (ii) While on bail, applicant shall mark his presence with Chaturshrungi Police Station, Pune quarterly on first day of each such month pending trial and shall attend trial Court on fixed dates.
- (iii) Applicant shall not tamper with witnesses.
- (iv) Application is disposed of in above terms.

P.N. DESHMUKH, J.