

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1043 OF 2019

Devanand @ Deva Bhalshankar Jamadar ...Applicant

V/s.

The State of Maharashtra ...Respondent

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Mr. Ghanshyam Jadhav i/b Biju A. Aloor, Advocate for the Applicant.

Mr. S.H. Yadav, APP for the State-Respondent.

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CORAM : PRAKASH D. NAIK, J.

DATE : 11th November 2019

PC :

1. The applicant is seeking Bail in Connection with C.R. No.104 of 2018 registered with Dehu Road Police Station, District Pune for offences punishable under Section 307 r/w Section 34 of IPC and under Section 3 (25) of the Arms Act.

2. The applicant was arrested on 29th April 2018. The prosecution case is that the informant was falsely implicated in a case under Section 302 of IPC by rival gang. He was acquitted. The rival gang had grudge against him. On 10th February 2018 the complainant went to his dairy farm along with his friends. It is alleged that about 11.30 a.m. two persons entered from the gate. One of them was identified by Vishal Khedekar and the other person was not known to him. Both of them fired at the complainant. However he managed to

dodge the bullet. The FIR was lodged on 10th February, 2018. The statement of persons accompanying the first informant were also recorded who gave similar version.

3. Apparently some C.C.T.V. footage was shown to the first informat and other witnesses, on 13th February 2018, which would indicate that co-accused Vishal Khedekar and the applicant accused were traveling together on a motor cycle. Pertinently, there is no C.C.T.V. footage in respect to the incident of firing. Thereafter, the supplementary statement of the complainant was recorded on 13th February 2018 wherein purportedly after watching the C.C.T.V. footage he has named the applicant.

4. On 29th April 2018 applicant was arrested and the Test Identification Parade was conducted on 7th September, 2018. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case. The applicant has not been named in the First Information Report. The Identification Parade was conducted after watching the C.C.T.V. footage. The applicant do not belong to any gang and he has not having any criminal antecedents. Learned APP submitted that the applicant has been identified in the Identification Parade. One more case is registered against the applicant for offence punishable under Section 307 of IPC. The

applicant was also identified in C.C.T.V. footage collected during the course of investigation.

5. The complainant has not named the applicant in the First Investigation Report. The incident has occurred on 10th February, 2018. The C.C.T.V. footage was purportedly shown to the first informant on 13th February 2018 in which he has identified the applicant as one of the person who was accompanying Vishal Khedekar on his motor cycle. It is pertinent to note that the C.C.T.V. footage was not with regards to the incident of firing. It is also relevant to note that after watching C.C.T.V. footage, the applicant was put in the Identification parade which was conducted belatedly on 7th September 2018. The applicant was arrested in April 2018. The evidence of the other witnesses recorded during the course of the investigation is also of similar nature. If the informant was knowing the applicant as reflected in his supplementary statement dated 13th February, 2018 recorded after watching C.C.T.V. footage, certainly he would have named him in the First Information Report. Admittedly, the case of the complainant is that he managed to dodge the bullet which was fired at him. During the course of investigation, empty cartridges were not found at the scene of the offence. The applicant is in custody since last one and half year. The affidavit filed by the learned APP is taken on record. Case for grant of bail is

made out. Hence, the order as follows.:

ORDER

1. Criminal Bail Application No. 1043 of 2019 is allowed;
2. The applicant is directed to be released on bail in connection with C. R. No.104 of 2018 registered with Dehu Road Police Station, District Pune on furnishing P.R. bond for the sum of Rs. 25,000/- with one or more sureties in the like amount;
3. The applicant shall report concerned police station once in a month on every first Saturday between 10.00 am. to 12.00 pm. till further order.
4. The applicant shall not tamper with the evidence.
5. Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)