

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2462 OF 2019

Shahid Ahmed Nisar Ahmed] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Mahendra Sandhyanshiv, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

PSI N.R. Shaikh attached to Pawarwadi Police Station, Malegaon present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 25th SEPTEMBER, 2019.

P. C. :-

1. The applicant is seeking his release on bail in connection with C.R.No.I-84/2018 registered with Pawarwadi Police Station, Malegaon, District Nashik u/sec.395, 397, 342, 504 of I.P.C., u/sec.4 r/w 25 of the Indian Arms Act and u/sec. 37 (1) (3), 135 of the Maharashtra Police Act.

2. The FIR is registered by Haroon Khan Ayyub Khan on 27/08/2018. He has stated that, at about 1.30 a.m. he was travelling on his motorcycle. Near Raja Chowk suddenly five motorcycles encircled him. There were 13 accused persons. They were carrying

weapons like sword, sickle, knife and wooden sticks. Some of them were known to him and some of them were totally unknown. The informant has described some accused by giving some vague reference. It is his further case that, all of them assaulted him with their respective weapons. They were blaming him for helping police in arresting one Mohammed Sufiyan. He was assaulted. They removed Rs.10,000/- cash and mobile phone from him and thereafter, they went away. On this basis, the FIR is lodged.

3. The applicant was arrested on 03/04/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

4. Heard Mr. Mahendra Sandhyanshiv, Ld. Counsel for the Applicant and Ms. S.S. Kaushik, Ld. APP for the State/Respondent.

5. Ld. Counsel for the applicant submits that, the applicant's name was not mentioned in the FIR nor it is specifically mentioned in the statement recorded u/sec. 164 of Cr. P.C. of the complainant. He submitted that, he is mainly referred as Tahir's father in the statement recorded u/sec. 164 of Cr. P.C. He submitted that, the injuries suffered by the victim were simple injuries.

6. Ld. APP relied on the charge-sheet filed with the application and submitted that, there were 13 accused and 7 accused were known.

7. I have considered these submissions. Apart from the statements of the first informant himself, there is no other material against the present applicant and in these statements also, the applicant is only referred vaguely. His full name is not given and he is described as Tahir's father. In this case, the test identification parade was necessary but it was not held. There is no recovery at his instance nor any article or cash was recovered from him. The injury certificate of the victim shows that, he had suffered 9 injuries. But only one injury on left forehead caused by the sharp weapon was referred as grievous injury and all other injuries were simple injuries. One abrasion was caused by hard weapon and all other injuries were caused by sharp weapons. Thus, even at this stage, no particular injury can be attributed to the role allegedly played by the present applicant. Considering this weak nature of evidence against the applicant and also considering the fact that, he is in custody since 03/04/2019, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

1. The Applicant is directed to be released on bail in connection with C.R.No.I-84/2018 registered with Pawarwadi Police Station, Malegaon, District Nashik, on his furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)