

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2803 OF 2018

Abdul Shafi Abdul Rafiq Shaikh @ Firoz Nanhe,
Age 32 years, Occ. Business,
R/o.Abdul Rehman Makrani Chawl,
Subhash Road, Opp.Makka Masjid,
Jogeshwari (E), Mumbai-400 060.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Shailesh Kharat with Naveen Kumar I/by Siraj Ghiwala for applicant.

Mr.A.R.Kapadnis, APP, for State.

Mr.R.S.Sankpal, PSI, Andheri Railway Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 6th February 2019

PC :

1. This is an application for bail in CR No.707 of 2018 registered with Andheri Railway Police Station for offences under Sections 307, 332, 353, 34 of Indian Penal Code. The FIR was lodged on 23rd April 2018.

2. It is the case of prosecution that the accused were habitual offenders and information was received that they are present at the platform of Jogeshwari Railway Station. When the policemen tried to apprehend them, the accused started running on the track. They were chased by police. The accused caught hold of the complainant and told him that he would be thrown on the track so that he would be run over by train. The accused caught hold of the victim and thrown him on the railway track when the train was about to pass on the track. Some how the victim managed to save himself.

3. The applicant and other accused were arrested. The applicant had preferred application for bail before the Sessions Court which was rejected.

4. It is contended by the advocate for applicant that offence u/s 307 of IPC is not made out. The applicant is falsely implicated in this case. There are no independent eye witnesses to this incident. All the witnesses are interested as they belong to police department. The medical evidence does not support the prosecution case. The applicant was not wanted in any case. Therefore, question of apprehending him did not arise. The applicant is in custody from the date of arrest.

5. Whereas, learned APP submitted that there is sufficient evidence against the applicant. There are eye witnesses to the incident. Medical evidence indicate that the victim had suffered abrasion. The medical history also mentions about assault on the railway track. The application has three antecedents in relation to the offence u/s 379 of IPC.

6. I have perused the statements which are part of charge sheet. Three cases are registered against applicant for offence u/s 379 of IPC. There are eye witnesses to the incident, which supports the version of complainant. Medical history also indicate that there was assault at the railway track. Prima facie there is evidence to show the involvement of the applicant. The submissions advanced by learned counsel for applicant are not sufficient to grant bail to the applicant. Considering the aforesaid circumstances, no case for grant

of bail is made out. Hence, Criminal Bail Application No.2803 of 2018 is rejected.

7. Considering the fact that the applicant is in custody from 24th April 2018, the Trial Court is directed to make an endeavour to conclude the trial within one year.

(PRAKASH D. NAIK, J.)

MST