IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLIATION NO.3283 OF 2018

Firoz Bashir Khan .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Vinod Kashid, Advocate for the Applicant.

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

Mr.Satish S. Jadhav, PI MIDC Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 28, 2019.

P.C.

This is an application for bail in connection with C.R.No.368 of 2018, registered with MIDC Police Station, Mumbai, for the offences punishable under Sections 307 and 120-B read with 34 of Indian Penal Code (“IPC”, for short) and Sections 3, 7 and 25 of Arms Act as well as Section 371) read with 135 of Bombay Police Act.

2 Applicant was arrested on 16th August, 2018. Investigation is completed and charge–sheet is filed.

3 The prosecution case is that the complainant is working in Speez Company. On 3rd August, 2018, he returned

home from work. At about 11:15 p.m., he went to meet his friend. Thereafter, complainant and his friend went for a drive in the car of his friend and they returned at about 12:05 a.m. When the complainant was standing along with his friend, they heard the sound of firing. At that time, they saw one unknown person holding revolver in his hand. Said person fired a bullet at the abdomen of injured Aslam Khan. Thereafter, the assailant sat on a motorcycle and escaped from the spot. The injured was admitted in the hospital for treatment.

4 Case against the applicant is that he is allegedly one of the conspirator in the crime. He has conducted Recee. He had stayed din hotel Ashwin at the relevant time.

5 Learned counsel for the applicant, however, submitted that there is no cogent evidence to establish the fact that the applicant has conducted Recee. Applicant is a businessman and is residing in the hotel since last several years and alleged circumstance staying in the hotel, cannot be considered as a strong evidence to show the involvement of the applicant in the crime. He, further submitted that the main conspirator, namely, Sayyed Sikandar Shah was arrested and he has been granted bail by the Sessions Court. Learned counsel for the applicant submitted that in the event applicant is granted bail, he would reside at his relatives place at Mumbai.

6 Learned APP submitted that there is evidence of CDR Record showing that the applicant was in touch with the assailant. It is also submitted that there are antecedents against the applicant.

7 The case of the prosecution is that the applicant is the conspirator. Admittedly, the applicant was not the assailant. The co-accused having attributed the role of being primary conspirator, has been granted bail. The Sessions Court has rejected the application on the ground that the co-accused is absconding. Applicant is in custody from the date of arrest, investigation is completed and charge–sheet has been filed. Considering the nature of evidence against the applicant and the circumstances referred to hereinabove, case for grant of bail is made out.

8 Hence, I pass the following order:

:: O R D E R ::

(i) Criminal Bail Application No.3283 of 2018, is allowed;

(ii) Applicant is directed to be released on bail in connection with C.R.No.368 of 2018, registered with MIDC Police Station, Mumbai, on his furnishing P.R.Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

(iii) Applicant shall attend MIDC Police Station, Mumbai, once in a month on first Saturday between 11:00 to 1:00 p.m., till further order;

(iv) Applicant shall not tamper with the evidence;

(v) Applicant is permitted to furnish cash security of Rs.25,000/-, in lieu of surety, for a period of eight weeks;

(vi) Applicant shall furnish his residential address where he would reside after his release on bail and also details about his permanent address to the investigating officer;

(vii) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)