

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

18 BAIL APPLICATION NO.1319 OF 2020

Irfan Khan s/o Ayub Khan
Age : 29 years, occ : labour
R/o Zam Zam Colony, Darga
Road, Parbhani.

Applicant.

Versus

The State of Maharashtra
Through Police Inspector,
Nanalpeth Police Station,
Parbhani.

Respondent

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Mr. A.N. Sabnis, Advocate holding for
Mr. E.S. Murge, Advocate for the applicant.
Mr. R.V. Dasalkar, A.P.P. for respondent / State.

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CORAM : V.K. JADHAV, J.

DATE : 07.12.2020

ORDER :-

1. The applicant is seeking regular bail in connection with Crime No. 415 of 2020 registered with Nanalpeth Police Station, District Parbhani for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. His Criminal Bail Application No. 854 of 2020 with similar prayer came to be rejected by the learned Additional Sessions Judge, Parbhani vide order dated 17.10.2020.
2. Heard both sides.

3. The learned Counsel for the applicant submits that the investigation is over and charge-sheet has been submitted. The applicant is in jail in connection with the present crime since 27.07.2020. The learned Counsel submits that so far as the applicant is concerned, he is alleged to have been committed offence punishable under Section 201 of the Indian Penal Code. The learned Counsel submits that specific role has been ascribed to each and every co-accused in commission of the crime. However so far as the applicant is concerned, it has been alleged that he has facilitated the escape of the assailants from the spot after the incident was over. It is alleged that the applicant was ready with his motorbike by the side of the spot and as soon as the incident was over, co-accused No.1 Shaikh Jafar sat on his motorbike and fled away from the spot. There is no criminal history. The applicant has his roots in the society. He is available for trial. The applicant is ready to abide the conditions if imposed by this Court while enlarging the applicant on bail. The applicant may be released on bail.

4. The learned A.P.P. has strongly resisted the application on the ground that there are eye witnesses to the incident. Though the applicant has facilitated escape of the co-accused from the spot, however, he has shared common

intention. Prima facie there is strong case. There is possibility of tampering prosecution evidence. The applicant may not be released on bail.

5. On going through the allegations made in the complaint and on perusal of the charge-sheet, though I find name of the applicant mentioned in the F.I.R., however, the role attributed to him is only to the extent that he kept ready the motorbike to facilitate the escape of the co-accused from the spot after the incident was over. In view of the same, at the time of filing of charge-sheet, charge under Section 201 of the Indian Penal Code came to be added. There is no criminal history. Applicant is available for the trial. Thus, by imposing certain conditions I am inclined to release the applicant on bail. Hence, the following order.

ORDER

1. The application is hereby allowed.
2. The applicant Irfan Khan s/o Ayub Khan in connection with Crime No. 415 of 2020 registered with Nanalpeth Police Station, Parbhani for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, be released on furnishing personal bond of Rs.20,000/- (Rupees Twenty Thousand only) with one solvent surety of the like amount, on the following conditions :

(i) The applicant shall not tamper with the prosecution evidence in any manner.

6. The application is accordingly disposed of.

(V.K. JADHAV, J.)

VD_Dhirde