

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1708 OF 2019

Kurmadas Kaluram Badhe	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Sujit S. Mishra, Advocate for the Applicant.
Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 4th February, 2020

PC :

1. The applicant is seeking bail in connection with C.R. No. 764 of 2018 registered with Yerwada Police Station, Pune for offences punishable under Section 307 r/w Section 34 of Indian Penal Code, 1860, r/w Section 3/25 of Arms Act and Section 37(1) r/w Section 135 of Bombay Police Act, 1951.

2. The FIR was lodged on 22nd October, 2018. The prosecution case is that, the complainant is advocate by profession. He is practicing in the Courts at Pune with his brother Devanand Ratnakar Dhokne, who is also an advocate. They used to go to Court at about 10.00 a.m. by car. On 22nd October, 2018 the complainant and his brother proceeded towards Court by car and after finishing their work, they were returning to their residence at about 8.15 p.m. The complainant was driving the vehicle and his brother was sitting in

the front seat of the car. The complainant heard sound of Cracker and immediately asked his brother about said sound but his brother did not respond. He found blood on his head and also found broken pieces of window glass of his car. Injured was taken to hospital at Pune. It is further alleged that injured had given advice to the applicant and he paid fees for advice. However, applicant was threatening the injured brother for returning the fees. The complainant suspected the involvement of applicant. Subsequently statement of the injured was recorded on 5th December, 2018. He has named the applicant as the person who had threatened him and shot on his head. The applicant was arrested. The weapon was seized from him. On completing investigation, charge-sheet is filed.

3. Learned advocate for the applicant submitted that the applicant has been falsely implicated in this case. The evidence collected against him is doubtful. The complainant has not seen the incident of assault. The applicant was impleaded on the basis of suspicion. The recovery of revolver suffers from discrepancies and doubtful. Hence, the applicant cannot be attributed role of firing by revolver. The legal advice was obtained long back and the fees were paid to the advocate. The statement of witnesses mentions that he has learnt the name of the accused from the police. He relied upon the Judgment of this Court granting bail to the accused, for offence

punishable under Section 307 of Indian Penal Code on the ground that the accused was in custody for substantial time and the charge-sheet is filed in Criminal Application No. 2775 of 1994 in the case of ***Anil alias Bapu Marane V/s State of Maharashtra***. There are no criminal antecedents against the applicant.

4. Learned APP submitted that the ballistic report supports the prosecution case. The revolver which was seized from the applicant was sent for examination and the report indicates that bullet was fired at the injured from the said revolver. Statement of the complainant involves the applicant. Statement of injured names the applicant as person who shot at him. The victim had sustained injury on his head.

5. I have perused the FIR and other documents which forms part of charge-sheet. The complainant is an advocate. The injured was also an advocate. The complainant has stated that they were returning home by car. His brother was shot. The injured had sustained injury to his head. The injury certificate refers to Gun shot injury to head which is of grievous nature. There is also reference of entry wound in left parieto occipital area of size 3 X 1 cm and exit wound in right occipital area. Two lacerated wound over right and left mandible area. The injury was serious in nature. It is pertinent to

note that the complainant was driving the vehicle. Injured were sitting on the front seat. The statement of the injured discloses involvement of applicant. Considering the gravity of the offence and the manner in which the accused has shot injured, no case for grant of bail is made out. However, considering the fact that applicant is in custody from 23rd October, 2018, trial can be expedited.

6. Hence, I pass the following order.

ORDER

- i) Bail Application No. 1708 of 2019 stands rejected and disposed of accordingly.
- ii) Trial is expedited.

(PRAKASH D. NAIK, J.)