

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 897 OF 2021

Shaikh Javed @ Tipu Shaikh Maksood
Age : 25 years, Occ : Labour,
R/o : Vijay Nagar Chowk, Near Kargil
Ground, Aurangabad.

... Applicant

VERSUS

The State of Maharashtra
Through Investigation officer,
Pundlik Nagar Police Station,
Dist. Aurangabad.

... Respondent.

...

Advocate for the Applicant : Mr. H. D. Deshmukh
APP for the Respondent – State : Mr. A. V. Deshmukh

...

CORAM : V. G. BISHT, J.

DATE : 01st SEPTEMBER, 2021

PER COURT :-

1. This is an application under section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.61/2021, registered with Pundlik Nagar Police Station, Aurangabad, District Aurangabad for the offences punishable under Sections 25, 3 of Arms Act, 1959 and 135 of Maharashtra Police Act, 1951.

2. It is the case of prosecution that on 24.02.2021 while the informant and others were on patrolling duty, they received information that the applicant alongwith another person (co-accused) is roaming and also possessing a country made pistol. Accordingly, a trap was laid but the applicant fled away from the spot and another accused was arrested along with the country made pistol.

3. Mr. H. D. Deshmukh, learned counsel for the applicant, submits that the applicant is in no way concerned in the alleged recovery of pistol in as much as the same country made pistol was found in the possession of co-accused. *Prima-facie* there is nothing against him and in such circumstances the application deserves to be allowed.

4. Mr. A. V. Deshmukh, learned APP for the Respondent - State, on the other hand, would submit that the present applicant is history sheeter and his custody is necessary in order to ascertain from where the country made pistol was secured by him and the other co-accused.

5. I have carefully gone through the First Information Report. It is pertinent to note from the contents of FIR that the other accused, namely, Shaikh Sohel Shaikh Badshah was

found in possession of vehicle and the country made pistol. It further appears that when the informant was confronted, he revealed that the said pistol was given to him by the present applicant. In my considered opinion, the above statement of co-accused will not further the case of prosecution. So also there is no material on record to show that the vehicle was standing in the name of present applicant.

6. As far as the applicant being a history sheeter is concerned, on being confronted, learned APP fairly submitted that so far no conviction has been recorded against him.

7. In view of the facts and circumstances of the case, in my considered opinion, the present application deserves consideration and, therefore, I am inclined to allow the application. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicant - Shaikh Javed @ Tipu Shaikh Maksood herein in connection with Crime No. 61/2021, registered with Pundlik Nagar Police Station, Aurangabad, Taluka and District Aurangabad for the offences punishable under Sections 25, 3 of Arms Act, 1959 and 135 of Maharashtra Police Act, 1951, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only), with one or two sureties in the like amount.

- (iii) The applicant shall attend concerned police station as and when called and shall cooperate with the police in the investigation.
- (iv) The applicant shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed off.

(V. G. BISHT)
JUDGE

shp/-