

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.71 OF 2021
WITH
INTERIM APPLICATION NO.134 OF 2021

Fayyaz Rafiq Qureshi
versus
The State of Maharashtra

Applicant

Respondent

Mr.Jigar K. Agarwal with Saba Singh for applicant.
Mr.Sajid Qureshi h/for Satish Muley for intervenor in IA.
Mr.Y.M.Nakhwa, APP, for State.
API M.S.Sangle, Bandra Police Station, Mumbai, present.

CORAM : PRAKASH D. NAIK, J.
DATE : 18th January 2021

PC :

1. Leave to amend to correct name of applicant. Amendment be carried out forthwith.
2. The applicant is seeking bail in connection with CR No.717 of 2020 registered with Bandra Police Station for offence punishable under Sections 307, 336, 341, 504, 506(II) of Indian Penal Code. The applicant was arrested on 29th November 2020.
3. The FIR was lodged on 29th November 2020 alleging that the complainant had entered into money transaction with the accused persons. The accused were insisting for return of said money. The complainant was threatened that if he does not return the amount, he will have to face dire consequences. On 28th November 2020 the co-accused Farhan had allegedly fired at the complainant. The applicant was present along with co-accused. The bullet hit the

cushion of sofa. Both the accused were arrested.

4. After the arrest of applicant and the co-accused, they were produced before the Court of learned Magistrate and were remanded to custody from time to time.

5. The remand application dated 12th December 2020 mentions that during interrogation of the accused Farhan Sayed, he agreed to hand over pistol. At his instance one pistol was recovered from the house of sister of applicant. On verification it was found that the said pistol was a cigarette lighter. It did not match with the details provided by the complainant.

6. The advocate for applicant submitted that the applicant has been falsely implicated by the complainant as he owns money to the applicant and co-accused. There was no firing at all. There is no recovery of fire arm as alleged by the complainant. The co-accused Farhan has been granted bail by the Sessions Court vide order dated 15th January 2021.

7. Learned APP submitted that the applicant was present at the scene of offence. The spot panchanama indicate that there was a hole to the sofa which corroborates the version of complainant. Learned advocate for complainant has tendered written arguments to oppose the application for bail. He has also filed intervention application. According to the intervenor-complainant, the offence is serious. There is lacuna in investigation. The complainant is being pressurized and threatened by the accused. The incident was pre-planned.

8. It appears that there was financial transaction between the complainant and accused. The applicant is in custody from 29th November 2020. The role of firing was attributed to Farhan Asgar Sayyed. The applicant is presently in judicial custody. The remand report indicate that alleged weapon recovered at the instance of co-accused was a lighter. The accused who was attributed the overt act of firing at the complainant has been granted bail by the Sessions Court vide order dated 15th January 2021. While granting bail to the co-accused, learned Sessions Judge has observed that ballistic expert has visited the spot and did not find positive evidence regarding firing and the alleged pistol which is allegedly seized by police during investigation is a cigarette lighter.

9. In view of the above, case for granting bail is made out. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.71 of 2021 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.717 of 2020 registered with Bandra Police Station, on executing PR bond in the sum of Rs.30,000/- with one or more sureties in the like amount'
- (iii) The applicant shall not tamper the prosecution evidence or witnesses in any manner and shall co-operate with the investigating officer;
- (iv) The applicant is permitted to furnish cash security in the sum of Rs.30,000/- for a period of four weeks in lieu of surety before

learned Metropolitan Magistrate.

10. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)

MST