

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1126 OF 2021

Rizwan Razzak Ahmad

Applicant

versus

The State of Maharashtra

Respondent

Ms.C.S.Gongane and Mr.Vijay s. Gaikwad for applicant.

Ms.Anamika Malhotra, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th April 2021

PC :

1. The applicant is apprehending arrest in CR No.265 of 2020 registered with Dharavi Police Station for offences under Sections 302, 307, 326, 324, 323, 504, 143, 144, 147, 148, 149 r/w 34 of Indian Penal Code, under Sections 4 and 25 of Arms Act and under Sections 37(1)(a) and 135 of Bombay Police Act.

2. The case of prosecution is that on 27th June 2020 the complainant, his uncle Afzal Ibrahim Shaikh, cousin brother Fardeen Afzal Shaikh, aunt Jafeesa Shaikh, Roshan Afzal Shaikh were sitting near the house after dinner. When they were returning home 10 to 15 persons came there. They were armed with sharp weapon. Furqaan Qureshi assaulted Afzal Shaikh by giving blow of knife on his stomach as a result of which his intestine came out and he died. The other witnesses were also assaulted. FIR was registered against other persons.

3. The contention of applicant is that applicant has been tried to be implicated on the basis of mistaken identity. The FIR and statements of other witnesses refer to one Bale Qureshi and it is the

case of investigating agency that applicant is Bale Qureshi. It is stated that name of applicant is Rizwan Razzak Ahmed and not Bale Qureshi. There is no evidence on record to show that applicant is Bale Qureshi. Nick names of other accused are referred to in the statement of witnesses, however, name of applicant is not mentioned or he has no nick name as Bale Qureshi. He has been unnecessarily harassed by Police. It is submitted that for the first time in the say filed before Sessions Court it was stated that nick name of applicant is Bale Qureshi. It is submitted that identification proof of applicant in the nature of Aadhar Card shows his name as Rizwan Razzak Ahamed. Investigation revealed that nick name of the applicant is Bale. Specific overt act is attributed against applicant. In the say filed before the Sessions Court, the applicant is referred to as Rizwan @ Bale Qureshi. The offence is of serious nature.

4. From the reply filed before the Sessions Court and the order passed by the Sessions Court as well as it appears that the case of prosecution is that applicant is known as Bale Qureshi. Specific overt act has been attributed against him as participant in the crime. The applicant has purportedly preferred application for anticipatory bail as he was informed that he is being implicated as Bale Qureshi. Considering the factual aspects of the matter and seriousness of the incident, no case for grant of anticipatory bail is made out. Custodial interrogation of the applicant is necessary. There is no reason for the prosecution to falsely implicate the applicant. Hence the application deserves to be rejected. It is accordingly rejected.

(PRAKASH D. NAIK, J.)