

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

ANTICIPATORY BAIL APPLICATION NO. 1070 OF 2019

Mohammed Naseem Mohammad Shafique Momin ...Applicant
Versus
The State of Maharashtra ...Respondent

None for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd AUGUST, 2021

P.C. :

1. Perused the papers with the assistance of the learned APP.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No.36 of 2019, registered with the Bhiwandi City Police Station, Thane, for the alleged offences punishable under Sections 454, 457, 380 r/w 34 of the Indian Penal Code.
3. The applicant was granted interim protection vide order dated 3rd May 2019, on the premise that co-accused in the present case was also granted interim relief by this Court vide order dated 25th April 2019.
4. It is not in dispute that co-accused – Mohammed Shakeel Abdul Majid Momin, who was granted interim protection by this Court, his

interim relief has been confirmed vide order dated 17th July 2021, passed in Anticipatory Bail Application No.1000 of 2019. It is not in dispute that the role of the applicant is similar to that of the said co-accused. The allegation as against the applicant and the co-accused is that they entered into the office of Shakil Raza Momin by breaking open the door and committed theft of DVR, hard-disk, CCTV camera, TV and other articles. It appears that there is a dispute over the control of The Sunni Jama Masjid Kotergate Trust between two groups. In the order dated 17th July 2021, by which this Court (Coram:Prakash D. Naik, J.) confirmed the interim relief granted to co-accused – Mohammed Shakeel Abdul Majid Momin, it is stated that the other two co-accused were prosecuted and after trial were acquitted from the said case vide Judgment and Order dated 29th April 2019. It appears that the complainant had not supported the prosecution case. This Court whilst confirming the interim protection to co-accused – Mohammed Shakeel Abdul Majid Momin, has observed in para 5 that no other witnesses had deposed any incriminating evidence as against any of the accused and confirmed the interim protection on certain terms and conditions.

5. Considering that the role of the applicant is similar to that of co-accused – Mohammed Shakeel Abdul Majid Momin, the application

deserves to be allowed. In the facts, custodial interrogation of the applicant is not warranted. Accordingly, the following order is passed:-

ORDER

- (i) The interim relief granted by this Court vide order dated 3rd May 2019 is confirmed;
- (ii) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant to cooperate with the investigating agency.

6. The application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.