

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.131 of 2022

Irfab Sharif Maldar	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

...

Mr.Ayaz Khan for the applicant.
Smt.S.S. Kaushik, APP the applicant.
API Shri Dhanraj Chaudhari from DCB, CID present.

CORAM: BHARATI DANGRE, J.
DATED : 28th FEBRUARY, 2022

P.C:-

1 Heard learned counsel for the applicant and learned APP for the respondent State in presence of Shri Dhanraj Chaudhari, the Investigating Officer, who has filed charge-sheet on completion of the investigation.

2 The applicant, who is arraigned as Accused no.6 in C.R.No.110 of 2015, seek his release on bail in the event of his arrest, though it is informed that a charge-sheet has been instituted in the NDPS, Special Court in the said C.R. in the year 2016. Perusal of the proforma charge-sheet which has been placed on record would reveal that the present applicant is

Tilak

arraigned as accused no.6 and he is shown as absconding accused. The proforma charge-sheet support the accusations and the charge levelled against the accused persons and as far as the present applicant is concerned, since he is shown as absconding, he is attributed the same role as the other accused persons who were arrested and this include the allegation of conspiracy u/s.120-B of the IPC.

3 Mr.Khan, learned Advocate for the applicant, would submit that the applicant had never absconded and in fact, when the crime was registered in the year 2015, he was summoned by the Investigating Officer and by remaining present, he submitted relevant documents before the Officer and he was allowed to leave. Despite this, on completion of investigation, the charge-sheet has been filed where he is shown as a 'wanted' accused.

4 On specific inquiry as to what is the material contained in the charge-sheet, the Investigating Officer who is present in the Court instruct the learned APP to make a statement that except the fact that the applicant was working as a driver on the vehicle of accused no.1, and therefore, he was on visiting terms with the accused no.1, there is no material compiled in the charge-sheet, indicating his involvement in the alleged conspiracy and also in respect of the charge of collection of fire arm and narcotics drugs.

5 In absence of any such material, the accusation against the present applicant and need for his custodial interrogation only on the ground that at the spot, there were four fire-arms recovered and the balance ammunition is yet to be seized, loses its sanctity, since the presence of the present applicant on the spot is not shown in the charge-sheet.

In the wake of the above statement coming from the Investigating Officer, the applicant deserve to be released on bail in the even to his arrest subject to the following conditions :-

ORDER

- (a) In the event of his arrest, the Applicant – Irfan Sharif Maldar in connection of C.R.No.110/2015 registered with BKC police station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Applicant shall mark his attendance in the police station on any working day in the first week of every month between 10.00 am to 2.00 p.m for a period of six months.

(d) The applicant shall secure his presence in the Special Court as per the directions of the learned Judge presiding over the trial Court.

6 The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J