

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2643 of 2021

Irshad Samshuddin Shaikh .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Nitesh J. Mohite for the applicant.
Ms.A.A.Takalkar, APP for the State.
API Shri Saroda from Mahatma Phule Chowk police station,
Kalyan.

CORAM: BHARATI DANGRE, J.
DATED : 10th OCTOBER, 2022

P.C:-

1 The present applicant is charged for the offence punishable u/s.307, 323, 504, 120B r/w Section 34 IPC. He is charge-sheeted as accused no.4 and came to be arrested on 20/10/2020.

2 On completion of investigation, the charge-sheet has been filed. On perusal of the said charge-sheet, the learned APP concede that the applicant is not the assailant as the charge-sheet allege that co-accused Sanjay Singh and Sonu Singh are the assailants and it is alleged that since the complainant/victim was often complaining about their illegal activities, in order to revenge

the said Act, he was assaulted. The injury certificate placed on record, refer to six contused lacerated wounds.

3 When specifically asked about the role attributed to the applicant, the prosecution allege that he is charged for the offence punishable u/s.120-B i.e. of committing the criminal conspiracy. When asked to reflect the material to that effect, she would invite my attention to statement of one Danish Khan and Mohd. Khan recorded on 22/10/2020 and 23/10/2020, respectively, where the applicant is seen in the company of some other co-accused, though not the assailants.

In any case, the aforesaid two statements do not reflect that the applicants were in the company of the assailants and prima facie the said statement fall short of establishing any criminal conspiracy since the case of the prosecution is, the applicant had hired the services of the two accused persons to mount an assault on the injured/complainant.

Considering the aforesaid material, the applicant cannot be further incarcerated and deserve his release on bail. Hence, the following order :

ORDER

- (a) The Applicant – Irshad Samshuddin Shaikh in connection with C.R.No.518/2020 registered with Mahatma Phule Chowk Police Station, Kalyan 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. The Applicant should not tamper with evidence.
- (c) The applicant shall attend the concerned police station on first Saturday of trimester between 3.00 pm to 5.00 pm. The Applicant shall attend the trial on regular basis unless exempted.
- (d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)