

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3987 OF 2021

Jameel Rafique Rangrez

..Applicant

V/s.

The State of Maharashtra & Anr.

..Respondents

Ms. Angela Singha a/w. Mr. S. T. Pandey a/w. Mr. Arvind Singh,
Ms. Ramsha Khatib a/w. Mr. Nagesh Ahwad, for the Applicant.
Mr. R. M. Pethe, APP for the Respondent / State.

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CORAM : C.V. BHADANG, J.
DATE : 30 MARCH 2022

P.C.

. This is an Application for bail.

2. The Applicant (Accused No.4) alongwith co-accused has been chargesheeted for the offence punishable under Section 302, 201 and 120-B r/w. 34 of IPC and Section 3 and 25 of the Arms Act in Crime No.451/2020 of Police Station Upnagar, Nashik.

3. The aforesaid crime is registered on the basis of the complaint dated 20 September 2020 lodged by Irfan Khajamohammad Shaikh. He states that on 19 September 2020,

his nephew Nawaj alias Baba Shaikh (since deceased) had called him from his mobile phone at about 9.53 hours that Accused Tipya and Murgi Raja had shot him and asked him to rush on the spot. The informant alongwith his brother-in-law Jahid Shaikh and friend Wasim Anwar went to DGP Nagar, Near Sai Mandir, where his brother-in-law Jahid Shaikh and sister Jakia Shaikh had reached. When the informant reached at the spot, police had already arrived there. Nawaj alias Baba Shaikh was carried to Wockhardt Hospital, where he died during the course of treatment.

4. The material prosecution case is that while proceeding towards the hospital, the deceased stated to the informant that Accused Tipya had called him (the deceased) at Regimental Plaza saying that they will settle the previous dispute. Accordingly, deceased went to Regimental Plaza and accompanied the Accused Tipya to DGP Nagar where the coaccused Murgi Raja came there and Murgi Raja fired a shot from his firearm on the deceased.

5. In this case, after investigation, a chargesheet is filed.

6. I have heard the learned counsel for the parties. Perused record.

7. The PM report shows that the deceased died on account of haemorrhagic shock due to firearm injury to chest and abdomen.

It can be seen that the prosecution case is based on the oral dying declaration made by the deceased to the informant, in which, the deceased has not named the present Applicant.

8. Learned APP pointed out the Memorandum Panchanama under Section 27 of the Evidence Act where under a firearm has been recovered at the instance of the present Applicant. From the submission made on behalf of the prosecution, it appears to be the prosecution case that after the incident the Applicant had gone to the spot and harboured co-accused Murgi Raja and also concealed the firearm by which Murgi Raja had shot at the deceased Baba Shaikh. The Memorandum Panchanama (at page 56 of the compilation) under Section 27 of the Evidence Act is relevant for the purpose. It can thus *prima facie* be seen that the Applicant is not stated to be actually involved in the incident in which the deceased was fired at. The investigation is complete and the chargesheet is filed.

9. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Jameel Rafique Rangrez, be released on bail in Crime No.451/2020 of Police Station Upnagar, Nashik, on executing a P.R. Bond

in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

(iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.

(iv) The Applicant shall not directly or indirectly make any attempt to tamper with the prosecution evidence or witnesses.

(v) Bail bonds to be furnished before the learned Sessions Judge.

(C.V. BHADANG, J.)

This order is corrected as per speaking to the minutes of the order dated 7/4/2022.