

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3032 OF 2022

Makhdum Ashraf Akhtar Aziz ...Applicant

vs.

The State of Maharashtra ...Respondent

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Mr. Narayan Bubna, for the Applicant.

Mr. P.H. Gaikwad, APP, for Respondent/State.

Mr. Ashish M. Waghle, P.C., Ayesha Nagar Police Station, Malegaon,
present.

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CORAM : ANUJA PRABHUDESSAI, J.

DATE : 21 NOVEMBER 2022

P.C. :

This is an application under Section 439 of Cr.P.C. filed by the Applicant, who is one of the accused in R.C.C. No.349 of 2022 pending on the file of Judicial Magistrate, First Class, Malegaon for offences under Sections 395 and 365 of Indian Penal Code and Section 3/25 of Arms Act.

2. Heard Mr. Bubna, learned Counsel for the Applicant and Mr. Gaikwad, learned APP for the State. I have perused the records and considered the submissions advanced by learned Counsel for respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Ejaj Ahmed Khurshid Ahmed, wherein he has alleged that on 7 March 2022, at 8.30 p.m., some unknown persons abducted the complainant, took away cash of Rs.3,000/- as well as his mobile phone and ATM card. They compelled him to give the pin number and withdrew cash of Rs.25,000/- from his account. The FIR was lodged against the unknown persons. In the supplementary statement recorded on 9 March 2022, the complainant implicated the co-accused and in statement recorded on 19 April 2022, the complainant stated that the co-accused Jamal had purchased a pistol used in the crime from the present Applicant. The Applicant was not involved in abducting the complainant or committing dacoity. The accusations against the Applicant that he had supplied fire arms, is based on the statement of the co-accused Jamal. Apart from the statement of the co-accused, prima facie, there is no other corroborative material. The nature of the accusations and the material in support thereof, would entitle the Applicant for bail. It is stated that charge-sheet has been filed and the case is still at the stage of committal. Considering the large pendency, the trial is not likely to commence in immediate future.

4. Considering the above facts and circumstances and particularly the role attributed to the Applicant, in my considered view, this is a fit case for grant of bail. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant who is one of the accused in R.C.C. No.349 of 2022 pending on the file of Judicial Magistrate, First Class, Malegaon for offence under Section 395 and 365 of Indian Penal Code and Section 3/25 of Arms Act arising from C.R. No.12 of 2022 registered with Ayesha Nagar Police Station, Malegaon, District Nashik is ordered to be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- (ii) The Applicant shall report to Ayesha Nagar Police Station once on 1st Monday of every month between 11.00 a.m. to 02.00 p.m. till the case is committed to the Sessions Court or until further orders and shall not leave jurisdiction of Malegaon City Division ;
- (iii) The Applicant shall not interfere with prosecution witness, her family and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.
- 5. Bail application stands disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)