

BHARAT
DASHARATH
PANDIT

Digitally signed
by BHARAT
DASHARATH
PANDIT
Date: 2022.09.30
13:31:52 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4395 OF 2021

Tipu @ Arshad Ahmed Khalil
Shaikh Limbuwale ... Applicant
Vs.
State of Maharashtra ... Respondent

Ms. Divya V. Parab for the Applicant.
Mr A.A. Palkar, APP for Respondent-State.

CORAM : NITIN W. SAMBRE, J.
DATE : SEPTEMBER 28, 2022

P.C. :

Heard.

2. Applicant-accused No.5 came to be arrested on 20.02.2020 in Crime No.180 of 2019 which was registered with Yeola City Police Station, Nashik for offences punishable under Sections 307, 326, 143, 147, 148, 323, 504 and 506 of the Indian Penal Code as also under Sections 4 and 25 of the Arms Act and under Section 135 of the Bombay Police Act on the date of incident viz. 19.12.2019 when the applicant – accused No.5 along with other co-accused with common intentions assaulted the complainant Shahrukh resulting into causing grievous injuries.

3. The contention of the counsel for the applicant is that the allegations against the applicant about assault are vague in nature. He would further urge that there is already a recovery of iron rod under Section 27 of the Arms Act. He would claim that the victim Shahrukh

has made a vague statement that the accused persons have assaulted him with various weapons. He would invite my attention to the statement dated 06.01.2020 which does not contain allegation of assault on victim's head. As such, he would claim that the applicant deserves to be released on bail.

4. While countering the aforesaid submissions, learned APP would invite attention of this Court to one antecedent i.e. Crime No.I-64 of 2019 punishable under Section 307 of the IPC. Learned APP would urge that the said offence was registered against the applicant by the very same complainant. According to her, the eyewitnesses as also the victim have specifically named the applicant of active participation in the crime. As such, the prayer is liable to be rejected.

5. I have appreciated the submissions.

6. With assistance of the respective counsel, I have perused the injury certificate dated 27.01.2020 of the victim Shahrukh in relation to whom the applicant alleged to have been involved in commission of offence. The first statement of Shahrukh in categorical terms speaks of assault by the applicant along with other 11 co-accused with rod, sticks, etc. No specific attributions are made against the applicant hitting on particular part of the body. There is a recovery of iron rod from the applicant. In the absence of specific mention against assaulting the said victim or any other victim involved in the crime on head, in my opinion, the vague attributions against the applicant cannot form the basis for rejecting the prayer for grant of bail. Rather, the vague allegations made in the statement creates a doubt as regards the involvement of the applicant in the offence in question.

7. In this background, having regard to the fact that the applicant is not named for causing any grievous injury, a case for bail is made out.

8. In view of the above, the application stands allowed. The applicant is directed to be released on bail in Crime No.180 of 2019 registered with Yeola City Police Station, Nashik for offences punishable under Sections 307, 326, 143, 147, 148, 323, 504 and 506 of the Indian Penal Code as also under Sections 4 and 25 of the Arms Act and under Section 135 of the Bombay Police Act on executing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount. Applicant shall attend the trial regularly. Two consecutive absences shall entail the trial court to proceed with cancellation of bail. Till the trial is concluded, the applicant shall keep himself away from the jurisdiction of the police station but for attending the trial Court. Applicant shall neither directly or indirectly try to influence the prosecution witnesses nor tamper with the evidence.

9. Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)

BDP-SPS