

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 629 OF 2023

Mohammed Nazeeb Sarfrajoddin
@ Mohammad Najeebuddin Farooqui
& others

Applicants

Versus

The State of Maharashtra

Respondent

Mr. M. K. Bhosale, Advocate for the applicants.
Mr. V. S. Badakh, APP for the State.
Mr. G. A. Kulkarni, Advocate for informant.

WITH
ANTICIPATORY BAIL APPLICATION NO. 646 OF 2023

Mohammad Haji Rahimoddin

Applicant

Versus

The State of Maharashtra

Respondent

Mr. M. K. Bhosale, Advocate for the applicant.
Mr. V. S. Badakh, APP for the State.
Mr. D. R. Deshmukh, Advocate for informant.

CORAM : R. M. JOSHI, J.
DATE : 30th JUNE, 2023.

PER COURT :

1. At the outset, learned counsel for the informant state that they have instructions to appear on behalf of the informant to assist learned APP.

2. Having regard to the nature of offence, permission is granted.

3. Applicants apprehend arrest in connection with Crime No. 560/2022 registered with Nanded Rural Police Station, Dist. Nanded, for the offences punishable under Sections 307, 143, 147, 148, 149, 188, 120B, 506 of Indian Penal Code and Section 3, 27 and 4 of Arms Act.

4. It seems that the first informant preferred Criminal Misc. Application before the Judicial Magistrate First Class and on the basis of order passed thereunder under Section 156(3) of the Code of Criminal Procedure, present crime is registered. It is the contention of informant that on 25th March, 2020 at about 1.00 pm the incident occurred in which the applicants and others came to the spot and assaulted him with weapons possessed by them. It is contended that one of the accused had tried to take a shot at him with pistol however, he was not successful. It is contended that in the said incident he sustained grievous injuries and was admitted in hospital.

5. Learned counsel for applicants states that in respect of the incident occurred in March 2020, offence is registered in the year 2022. Thus, there is inordinate delay in lodging First Information Report. He further states that in respect of the incident occurred on 25th March, 2020, immediate First Information Report was registered by the present applicants as in the said incident two persons lost their lives. It is contended that the allegations made belatedly against the applicants by the informant is by way of counter blast to the report lodged against him.

6. Learned APP and learned counsel for the informant opposed the said submission by relying upon the injury certificate which indicates that informant had suffered grievous injuries. According to them, informant was admitted in hospital on 25th March, 2020 and was discharged on 4th April, 2020. This, according to them, shows that the offence under Section 307 of the Indian Penal Code is rightly invoked against the present applicants.

7. From the material placed on record it is clear that some incident has definitely occurred on 25th March, 2020. In all, more than 25 persons were involved therein. Though the informant has

sustained injuries, it cannot be said with certainty as to which accused caused which injury to him. This needs to be observed in view of the fact that there is no immediate First Information Report lodged in respect of the said incident. Assuming that the informant herein was hospitalised and thereafter was arrested in connection with the crime registered, there are statements of witnesses which indicate that the witnesses could have lodged report about the said incident immediately. Delay in lodging First Information Report creates doubt about its veracity. Apart from this, the incident had occurred three years back. Therefore, there is no possibility of seizure of any weapon at the instance of the present applicants. In such circumstances, direction to the applicants to attend concerned police station and appear before the Investigating Officer for effective investigation of the crime is sufficient. Hence, applications are allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb