



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 583 OF 2024

Shaikh Alam Bashir

... Applicant

VERSUS

The State Of Maharashtra
And Another

... Respondents

.....
Mr. Rajendra G. Hange, Advocate for Applicant
Ms. S.S. Joshi, APP for Respondents – State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th APRIL, 2024

ORDER :

1. Applicant apprehends arrest in Crime No.0025 of 2024, registered with Amalner Police Station, District-Beed for offences punishable under sections 307, 326, 323, 504 read with section 34 of the Indian Penal Code and under section 30 of Arms Act.

2. FIR is lodged by Kishor Ajinath Gade alleging that in the marriage of Shivari Giri being performed on 17.03.2024 at Malkapur, District-Buldhna, quarrel took place between him and Shaikh Alam (applicant). In order to resolve the dispute on the intervening night on 17.03.2024 and 18.03.2024 at 12.30 a.m., he and Sunil Sanap went at Mundhe Chowk,

Chiklinath Village in Scorpio vehicle where the applicant, Dnyaneshwar Lad and Santosh Lad were waiting for him by parking Honda City Car nearby. Devidas questioned applicant as to why he quarreled in the marriage. After some exchange of words, applicant took out rifle and fired it on right leg of Devidas Sule. He rushed to save Devidas, but applicant again fired and bullet passed through, causing injury to his shoulder. Co-accused Dnyaneshwar Lad and Santosh Lad beat them with fists and kick blows. Rushikesh Lad and Nitish Gade initially took him and Devidas to Amalner Primary Health Center and from where they were taken to Civil Hospital Beed.

3. Heard learned advocate for applicant and learned APP for respondents - State. Perused the investigation papers.

4. Applicant claims that he is innocent and he was brutally assaulted and he has exercised his right of his private defence.

5. Record indicates that applicant has suffered following injuries.

- (i) CLW Maxilla fracture at wall of right maxillary sinus.
- (ii) CLW Head and parietal region
- (iii) CLW Deep abrasion below right eye.

6. *Prima facie*, there appears substance in the contention of applicant that since he was brutally assaulted, he had to exercise his right of private defence. He apprehended threat to his life and therefore retaliated towards informant and others in exercise of his right of private defence. Weapon which was allegedly used in commission of offence is a licenced weapon of applicant and the same is already seized by the Investigation Officer and nothing is to be recovered from applicant. Investigation appears to be almost complete. Applicant claims that he is resident of Mumbai, therefore, there is no possibility that he would tamper the prosecution evidence. Considering the injuries suffered by applicant and the allegations made in the FIR, there is no necessity of pre-trial custodial detention of applicant in the present crime.

7. Application is therefore allowed. In the event of arrest of applicant Shaikh Alam Bashir in connection with Crime No.0025 of 2024, registered with Amalner Police Station, District-Beed for offences punishable under sections 307, 326, 323, 504 read with section 34 of the Indian Penal Code and under section 30 of Arms Act, he be released on bail on executing Personal Bond and Surety Bond of Rs.15,000/- with one surety in the like amount.

8. Till filing of charge-sheet, applicant shall attend the concerned police station as and when called by the Investigating Officer.

9. Applicant shall not enter village Chiklinath, Taluka-Patoda, District Beed, until further orders.

[NITIN B. SURYAWANSHI]
JUDGE