

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 160 OF 2024

Javed Mohammad Sakir Shaikh

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Sushil M. Shukla a/w. Janki J. Sampat a/w. Sandeep Dubey for Applicant.

Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 19 JANUARY 2024

PC. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 573 of 2023 registered at Byculla Police Station, Mumbai, on 18.11.2023, under section 307 r/w. 34 of the Indian Penal Code and under sections 3 and 25 of the Arms Act.

2. The F.I.R. is lodged by one Mohsin Salmani. He states that, he has three pan bidi stalls in Mumbai. He has friends who have similar stalls. The informant and his friends are facing the prosecution for selling Gutka illegally. He has stated in the F.I.R. that, those who are in that business are always suspicious of each

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other because they think that they have rivals who provide the information to the police and, therefore, they have enemies. The incident in question took place on 18.11.2023 at 2.00a.m. when the informant was sitting with his two friends Mohammad Salman and Abdul Imran. Around 3.00a.m. two persons came on a blue coloured two wheeler. They had masked their face. One of them removed a pistol and fired once towards the informant. The bullet did not hit the informant, but it hit a cement block and ricocheted. It then hit the informant on his right leg. After that, those persons went away on the two wheeler. On this basis the F.I.R. was lodged.

3. Learned counsel for the applicant submitted that, even as per the prosecution case, the applicant was not one of the assailants who had come on the two wheeler. The applicant was not even the mastermind. The only allegation against the applicant is that, those two unknown persons had used the applicant's two wheeler and, therefore, he is sought to be arrested. Learned counsel submitted that, in fact, the scooter belonged to the sister in law of one of the applicant. One of the assailants had borrowed

it from the applicant. The applicant did not know their plan. Therefore, the applicant is apprehending his arrest.

4. Learned APP submitted that the applicant had provided that scooter to the main accused Imran Shaikh and, therefore, the applicant is also involved. She produced the injury certificate of the injured which shows that he had suffered trauma to the right leg with an unknown object.

5. I have considered these submissions. The investigation shows that the main accused Imran has given his statement U/s.27 of the Evidence Act mentioning that he was willing to show the scooter which he had concealed after the incident. That scooter was seized by the police. The investigation in respect of that scooter revealed that it was borrowed from the applicant. It actually belonged to the sister in law of the applicant. The material against the applicant is quite vague. There is nothing to show that the applicant had knowingly provided the scooter to the main accused to facilitate commission of the crime. In this view of the matter, the applicant's custodial interrogation will not serve any purpose.

There is nothing to show that the applicant had any other connection with the main accused. Therefore, he can be protected U/s.438 of the Cr.p.c.

6. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No. 573 of 2023 registered at Byculla Police Station, Mumbai, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation..
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)