



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

BAIL APPLICATION NO. 407 OF 2024

MOHD SHOEB MOHD HUSAIN KHAN ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Mr.Husen Shaikh a/w Mr.Rumman Shaikh, for the Applicant.

Mr. B.B. Kulkarni, APP for the State.

API- Mr. Jayadip Jadhav, DCB CID Unit-5 Kurla, Mumbai present.

CORAM : M. S. KARNIK, J.

DATE : MARCH 21, 2024

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302, 307, 120-B, 201 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 3, 4, 25, 27 of Indian Arms Act registered on 12.02.2022 vide C.R. No.67 of 2022 with Dharavi police station.
- 3.** Learned APP opposed the application for bail. It is submitted that the applicant is involved in a serious offence.

The applicant was arrested on 16/02/2022.

4. Having perused the material, I find that the role of the applicant is similar to that of the co-accused- Yasin Abdulla Shaikh and Mohd. Sahil Kalim Shaikh who have been enlarged on bail. So far as the co-accused-Yasin Abdulla Shaikh is concerned, the relevant portion of the order dated 13/09/2023 enlarging him on bail reads thus:

“2. This is an application for bail in respect of the offence punishable under Sections 302, 307, 120-B, 201 read with 34 of the Indian Penal Code (hereafter ‘IPC’ for short) and under Sections 3, 4, 25, 27 of Indian Arms Act registered on 12.02.2022 vide C.R. No.16 of 2022 with DCB CID Unit-5, Kurla, Mumbai.

3. There are in all nine accused. The applicant is the accused no.7. Initially the provisions of the Maharashtra Control of Organised Crime Act, 1999 were to be invoked against the applicant. However, sanction was not granted.

4. The accusations against the applicant are that he is a part of gang of which Kalim Rauf Sayyed-accused No.8 is the gang leader. The gang was given a contract to eliminate Amir Anis Khan. On the date of the incident i.e. 12.02.2022 the accused No.2-Saeed Shaikh @ Saeed Langada and accused No.3-Afsar Shaikh @ Bablu Mulla fired at Amir. Amir died. So far as the present applicant is concerned, it is the case of learned counsel that the assailants after fleeing from the scene of the offence kept their clothes worn by them in the house of the applicant. The accusation is mainly that the applicant is a part of the conspiracy. The clothes have been recovered pursuant to recovery under Section 27 of the Indian Evidence Act at the instance of the applicant. The applicant was

arrested on 16.02.2022 and is now in custody for more than one year and six months. Considering the nature of accusations against the applicant and also considering that there are no criminal antecedents reported against the applicant, the applicant can be enlarged on bail. The investigation is complete. The charge-sheet has been filed. The trial is likely to take a long time to conclude.”

5. So far as the co-accused Mohd.Sahil Kalim Shaikh is concerned, the relevant portion of the order dated 18/03/2024 enlarging him on bail reads thus :

“3. There are as many as nine accused. The applicant-Mohd. Sahil Kalim Shaikh is the accused No.4. The applicant was arrested on 16.02.2022. It is the case of the prosecution that two of the co-accused who are assailants fired at deceased-Aamir on 12.02.2022. The contract killing was ordered at the instance of accused No.1-Shamsunisa @ Shama Shaikh. The accused No.1-Shamsunisa @ Shama Shaikh was a drug peddler in the area of Dharavi and it is alleged that there was some rivalry with deceased who was opposing selling of drugs. Accused No.1 has been enlarged on bail by an order dated 04.03.2024. It is the case of the prosecution that after some advance was paid by accused No.1 to the gang leader of which the applicant was a member, the applicant accompanied other co-accused to Uttar Pradesh to buy the weapon. The applicant is not the actual assailant.”

6. Learned APP while opposing the application submitted that the applicant had gone to Aligarh to purchase the weapon which was used by the assailants.

7. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. On the ground of parity with the aforesaid co-accused,

I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Mohd. Shoeb Mohd Husain Khan in connection with C.R. No.67 of 2022 registered with Dharavi Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs.25,000/- for a period of 8 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Dharavi Police Station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.
- (e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (f) On being released on bail, the applicant shall furnish his contact number and residential address to

the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport to the Investigating Officer.

(i) If the applicant is found violating any of the conditions or involved in any other offences, it is open for the prosecution to apply for cancellation of bail.

(j) Except for the purpose of reporting to the Investigating Officer, the applicant shall not enter the jurisdiction of Kurla, Chembur and Wadala police stations after being released on bail. The trial Court may consider modifying this condition after some time on an application made which shall be decided on its own merits.

8. The application is disposed of.

(M. S. KARNIK, J.)