



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1270 OF 2024**

Aurangzeb @ Sheru Tahir Khan	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Husen Shaikh with Mr. Rumman Shaikh, for Applicant.
Mr. Prashant Jadhav, APP for State.
Mr. Dnayndev Bhivaji Kolekar, PSI, Byculla Police Station present.

CORAM: N.J.JAMADAR, J.
DATE : 27 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The Applicant who is arraigned in C.R.No.573 of 2023 registered with Byculla Police Station for the offences punishable under Sections 307 read with Section 34 of IPC and Sections 3 and 5 of the Indian Arms Act, has preferred this application to enlarged him on bail.
3. The first informant lodged a report with the allegations that on 18 November 2022 on the night intervening 17th and 18th November 2023 at about 3.00 a.m., while the first informant and his friends were sitting in front of Welcome Dresses, Mazgaon, two unknown persons came thereat riding a motorcycle. The pillion rider was wearing a mask. The pillion rider took out a pistol from his waist and aimed it at the first informant and his friends. As the first informant and his friends started to run away, the pillion rider fired at them. The bullet stuck the concrete block

on the steps to the said shop. The first informant sustained laceration on the third toe of right feet. Those unknown persons fled away towards Mustafa Bazar.

4. During the course of investigation, it transpired that at the instance of Nisar Ahmed Shaikh @ Papu, the absconding accused, accused No.1 Imran @ Babu and Accused No.3 Ahmed Shaikh had fired at the first informant and his friend. Accused No.3 was the assailant and the accused No.1 was riding the motorcycle. It further transpired that the firearm was supplied by the applicant. Thus, the applicant came to be arrested on 22 November 2023.

5. Learned Counsel for the Applicant submitted that after more than two months of the occurrence, statement of one Mohd. Ramzan was recorded, wherein the said witness stated that the said witness had seen the applicant handing over a white bag to an unknown person on 17 November 2023 at 1.00 p.m. The prosecution alleges that the said packet contained a pistol by means of which the accused No.3 fired at the first informant and his friend. It was submitted that apart from the said statement, there is no material to connect the applicant with the crime.

6. Learned APP, on the other hand, resisted the prayer for bail. It was submitted that the statement of Mohd. Ramzan incriminates the applicant. In addition, there is a panchanama of CCTV footage which shows that on 17 November 2023, the applicant was pillion riding the motorcycle driven by accused No.3 Ahmed @ Munna.

7. Prima facie, none of the aforesaid circumstances pressed into service on behalf of the prosecution, namely, the statement of Mohd. Ramzan and the panchanama of the CCTV footage indicates that the applicant had delivered the weapon of offence to the accused No.3. Prima facie, the matter appears to be in the realm of surmises and conjunctures. Evidently, the persons who had fired at the first informant and his friends were unknown to them. Even in the disclosure statement allegedly made by the assailant, the name of the applicant is not disclosed as a supplier of the weapon.

8. In the aforesaid view of the matter, at this stage, there does not appear to be any material to prima facie connect the applicant with the crime.

9. Learned APP submitted that the applicant has antecedents.

10. Even if it is assumed that the applicant has antecedents, in the absence of any incriminating material in the case at hand, the applicant cannot be deprived of his liberty on the count of criminal antecedents alone. I am, therefore, inclined to exercise discretion in favour of the applicant.

11. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Aurangzeb @ Sheru Tahir Khan be released on bail in C.R.No.573 of 2023 registered with Byculla Police Station on furnishing a PR bond in

the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before Byculla Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. 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.

(v) 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.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

(N.J.JAMADAR, J.)

SSP

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