

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 198 OF 2024

Rafique Salim Hashmi

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Shubham Upadhyay a/w Mr. Fahad Qureshi for Applicant
- Mr. Y.Y. Dabke, APP for State
- Mr. Mahesh Hambirrao Patil, Police Inspector, Nerul Police Station, Navi Mumbai.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 30, 2024

P. C.:

1. Heard Mr. Upadhyay, learned Advocate for Applicant and Mr. Dabke, learned Advocate for APP for State.

2. Applicant in the present case is Accused No. 5 out of 6 persons who are accused in the present crime. The principal offence for which he has been arrested is under Section 302 of IPC. The date of the incident is 15.03.2023. The Applicant has been apprehended and arrested on 27.03.2023 at the behest of Accused No. 1 – Mehek Jayrambhai Naria.

3. According to learned APP, Accused No. 1 – Mehek Naria was arrested on 18.03.2023 and he had disclosed in his statement that the present Applicant is one of the key conspirator in the crime. The

statement of Accused No. 1 – Mehek J. Naria is not placed on record in order to understand the role of the Applicant.

4. *PER CONTRA*, Mr. Upadhyay would submit that Applicant has no nexus whatsoever with the crime in question. He would submit that the name of the Applicant is not stated in the FIR nor was the Applicant present at the incident spot at the time of occurrence of the incident, not there can be any motive attributable to the Applicant to be a part of the conspiracy and most importantly, Applicant is having no antecedents, whatsoever and he is a civil contractor by profession.

5. Learned APP would however refute the submissions made by Mr. Upadhyay and submit across the bar that the Applicant has provided the vehicle i.e. bike and the weapon to the other accused and in that view of the matter, he has been apprehended in connection with the present crime. Learned APP is directed to place on record appropriate material in that regard for consideration which defines the role of the Applicant.

6. Mr. Upadhyay would submit that the prosecution has already filed its chargesheet before the Trial Court. According to him, copy of the chargesheet is placed before this Court and in that chargesheet which has been annexed to the present Application there is no statement appended which is given by Accused No. 1 indicting the

present Applicant. In that view of the matter, he states that had the said statement been there, it ought to have been annexed to the chargesheet which was filed before the Trial Court and the said statement could not have been kept away from the Trial Court. This apprehension expressed by Mr. Upadhyay will be considered.

7. Since learned APP would submit that the prosecution shall be in a position to produce the said statement of Accused No. 1 by 02.05.2024, list the present Bail Application for hearing on **2nd May, 2024 at 10:30 a.m.**

Amberkar

[MILIND N. JADHAV, J.]

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