

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2383 OF 2024

Kaushal Arvind Acharya ... Applicant
Vs.
Administration of Union Territory of Dadra &
Nagar Haveli and Diu Daman ... Respondent

Ms. Vrishali R. Raje for Applicant.

Mr. Aayush Kedia i/b. Mr. H. S. Venegavkar for Respondent.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 09, 2024

P.C. :

. Heard Mr. Raje, learned counsel for the applicant and Mr. Kedia, learned Special Public Prosecutor for the respondent i.e. Administration of Union Territory of Dadra & Nagar Haveli and Diu Daman.

2. The applicant is apprehending arrest in connection with FIR No.0075 of 2024 dated 27.06.2024 registered with Silvassa Police Station, Dadra Nagar Haveli, for offences under Section 341 read with Section 34 of the Indian Penal Code, 1860 (IPC) and Section 27 of the Arms Act, 1959. It appears that subsequently, offences under Sections 307 and 397 of the IPC as also Section 25(1) of the Arms Act are added.

3. The FIR was registered on the basis of the statement given by the informant, who claimed that the two named accused persons, being his friends and acquaintances, had assaulted him by firing upon him by means of a gun, resulting in bleeding injury to the right side of his thigh.

4. The learned counsel for the applicant submits that in the first place, the applicant is not named as accused person in the FIR. He

appears to have been arraigned as an accused on the basis of the statement of co-accused Parvez whose name was also subsequently added as the person, who had supplied the gun to the named accused persons. It appears that co-accused Parvez stated before the police that the gun used during the course of the incident was supplied by the applicant. It is submitted that other than the statement of the co-accused Parvez, there is nothing to link the applicant with the incident in question. It is submitted that the applicant is ready to co-operate with the investigation and therefore, this Court may consider allowing the present application.

5. On the other hand, the learned APP submits that the offences under the Arms Act are also registered against the applicant apart from serious offences under the IPC. It is submitted that the applicant has criminal antecedents for similar allegations of possessing and supplying guns. It is further submitted that considering the background of the applicant and the fact that he is stated to be the person, who supplied the gun used in the present incident, no indulgence may be shown to the applicant. It is also submitted that according to the co-accused Parvez, while handing over the gun used in the present incident, the applicant had shown two or three such similar weapons, which is also another factor that this Court may take into consideration while disposing of the present application.

6. In the present case, undoubtedly, the offences registered against the accused persons are serious in nature. But, it is necessary to examine the material on record to find out as to what is the exact nature of material linking the applicant in the incident in question. The applicant has not been named in the FIR. His role has surfaced on the basis of the statement of co-accused Parvez, who was himself not named in the FIR. It is alleged that co-accused Parvez supplied the gun to the named

accused, who actually fired upon the victim informant. The gun allegedly used in the present incident was recovered from a toilet of a petrol pump. It is not even alleged that the applicant has any connection with the said petrol pump.

7. Therefore, the applicant is linked with the incident in question, at this stage, only on the basis of the statement of co-accused Parvez. There does not appear to be corroborating material insofar as the connection of the applicant is concerned.

8. Merely because the applicant has criminal antecedents, cannot be a basis to reject his prayer for anticipatory bail, unless there is some material other than the statement of the co-accused person placed before this Court for linking the application with the incident in question. In any case, the applicant has undertaken to co-operate with the investigation.

9. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0075 of 2024 dated 27.06.2024 registered with Silvassa Police Station, Dadra Nagar Haveli, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 12.09.2024 and 13.09.2024 and thereafter as and when required by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper

with the evidence.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab