

CNR No. MHNS010003882022

Order below Exh.1 in Cri. Bail Application No.161/2022.
(Mobin Rafique Shaikh and others Vs. State)

The present application is moved by the applicants-accused 1) Mobin Rafique Shaikh and 2) Sagar Vishnu Dalbhat under section 438 of Cr.P.C. in connection with CR No.9/2022 registered with Igatpuri Police Station, Dist. Nashik for the offence U/s. 302,307,452,427,143,147,148,323,504,506 r.w.s. 149 of the Indian Penal Code, section 37(1)(3) r.w.s.135 of the Maharashtra Police Act and section 4/25 of the Arms Act.

2. It is stated in the application that, as per prosecution case on 28.1.2022 at about 9.30 to 10.30 a.m. the first informant and her family members had been to the Igatpuri police station in connection with their complaint that 10 to 15 persons have abused and pelted stone on her house and at about 3.30 to 4.30 p.m. When she was lodging her complaint with the police, she came to know that 15 to 20 persons have gone towards her house with knife, sword, sticks etc. Therefore, she alongwith Rahul Ramesh Salve, Fransis @ Kavu Patrick Manvel, Jon @ Chota Papa Patrick Manvel, Vishal Khade, Sanjay Raut, Faijan Shaikh and Bhushan Ahire proceeded towards her house. The accused surrendered the victims on their way and the accused Hari Bhandari assaulted Rahul Salve on his face, head, chest hands, legs. At that time Sonu Gupta also assaulted Fransis Manvel on his neck and Fransis Manvel was caught hold by the present applicants-accused and those 30 to 40 persons have attack on the house of the first informant. Hence, the FIR was lodged.

3. It is further stated in the application that in fact these applicants-accused were not present on the spot. They were

traveling by Pushpak Express to Manmad. They were accompanied with Nilesh Ingale and Sachin Darade. The CCTV footage is placed on record. It is also alleged that earlier the son of first informant David Patrick Manvel was murdered at Kalyan and crime was registered bearing CR No.283/2015 with Mahatma Phule Chowk Police Station and these applicants-accused were made an accused in the said crime. Therefore, due to previous enmity the present applicants-accused have falsely implicated in this present case. Hence, prayed to allow the application.

4. I.O. is present. He submitted his report and opposed the bail application.

5. Heard, both the parties. Perused entire record.

6. The learned counsel for applicants-accused Shri. A.P. Kalantri submitted that these applicants-accused have been falsely implicated in the present crime due to previous enmity. He further submitted that at the time of incident these applicants-accused were traveling by Pushpak Express to Manmad. He further submitted that the CCTV footage at the Manmad Railway Station is not available as the applicants are laymen, however, he produced on record CD containing the CCTV footage of the applicants-accused showing that they were present in Manmad City. Therefore, he prayed to grant anticipatory bail as they have been falsely implicated in present crime.

7. On the other hand, learned APP Shri. Suryvanshi submitted that accused have formed unlawful assembly and attack on the family members of the first informant. In the said incident Rahul Ramesh Salve was murdered and the Fransis Manvel was

seriously injured. He pointed the role of present applicants-accused. In the FIR, it is specifically mentioned that Sonu Gupta assaulted Fransis Manvel and this applicants-accused have caught hold him. I.O. Dr. Arjun Bhosale, D.Y.S.P. of Rural Division has produced the police papers of investigation so far done by him, which shows that he recorded statement of Fransis Manvel wherein he has given details of the incident and named the applicants-accused in his police statement. His injury certificate is placed on record, which shows that serious injuries were on his head and other parts of the body.

8. Thus, considering the seriousness of the offence and the fact that present applicants-accused are involved in the crime. So far as the plea of alibi is concerned, it cannot be considered at this stage, particularly the CCTV footage produced on record, it is matter of evidence during trial and therefore, plea of alibi is not attracted to the fact of present case. Therefore, considering all these issues, present application is devoid of merit. Hence, following order is passed.

ORDER

- 1) Anticipatory bail application No.161/2022 is hereby rejected.
- 2) Inform to concern police station accordingly.

Date- 05.02.2022

(M.A. Shinde)
Additional Sessions Judge-8,
Nashik.