

MHKO010028722021



Sessions Case No. 206/2021
Order below Exh. 4.
The State of Maharashtra VS. Alam
Shabbir Shaikh,

Applicant has filed this application under Sec. 439 of Cr.P.C. for his release in crime No. 54/2021 registered with Shahuwadi Police Station, Kolhapur for the offence punishable under Sections 353, 307, 333, 224 r/w. 34 of the Indian Penal Code, 1860.

02. Brief facts revealed from the copy of F.I.R. and arguments of learned advocates are as under:

On 03/03/2021 applicant and non applicant Baitul who were arrested in CR No. 53/2021 were brought out of lockup in order to produce them before the Magistrate by the police personnel. In front of the gate of the Court applicant Alam pretended about the pain in the chest. He took the stone and hit against the head of police head constable Wambale. Applicant and non applicant Baitul flee away from the custody of the police. Police caught applicant Alam but non applicant Baitul ran away, who was later on arrested by the police. Hence, police head constable Chintaman Wabale lodged the complaint.

03. Ld. Adv. Shri. Kakade for accused submitted that since 03/03/2021 applicant is in magistrate custody. The investigation is completed. There is no need of presency of applicant with police. The ingredients of Sec. 307 are not

attracted. There are no papers on record which would shows the criminal antecedents on applicant. The victim was discharged from hospital. As all the witnesses are police personnel, therefore, there is no question of tampering of evidence of prosecution witnesses. Applicant is permanent resident of Mumbai. Since last nine months applicant is in jail. No purpose would be served by keeping applicant behind bars. With these and other ground prayed to allow the bail application.

04. Learned A.P.P. Smt. P. J. Jadhav submitted that the offence is serious one. The applicant with a collusion of non applicant committed an offence and has trying to flee away from the custody of police. There are six crimes are pending against present applicant. If the applicant is released on bail, there is no possibility of presency of applicant in future. With these and other grounds prayed for the dismissal of the application.

05. From the above discussion it appears that prima-facie there is strong case which shows involvement of present applicant and also established the chain of circumstances against the present applicant in a serious crime. The charge-sheet, panchanama, statement of witnesses, prima-facie shows the involvement of the present applicant in the crime. The applicant is habitual offender and having criminal antecedent. If he released on bail, there is possibility of repetition of crime. The report of the police (Exh. 6) reflects that applicant is habitual offender. Crime has been pending against him at Andheri,

Thane, Wasai, Kalyan. Thus, if the applicant is released on bail, there is possibility of repetition of crime. Though the police personnel are the witnesses but considering the act of the applicant who dare to cause obstruction to the policeman while discharging their official duty, if applicant released on bail, certainly, it would send the wrong message to the society. There is possibility of repetition of crime and tampering with the evidence of prosecution. There is on possibility of presency of accused in future, if he released on bail. Whether the ingredients of Sec. 307 of Indian Penal Code are attracted or not, is a question which required to be determine at the time of trial. Considering the background of criminal antecedent of various offences registered against the applicant in different police station, considering the involvement of the applicant in the present crime, the reflection of the release of accused on bail on the society and possibility of repetition of crime, applicant is not entitled to release on bail. Hence, the order.

ORDER

Application stands rejected.

Date – 25-02-2022.
Kolhapur.

(Mahesh Krishnaji Jadhav)
Additional Sessions Judge Kolhapur.