

MHNS070023272025



**Order Below Exh. 41 in Sessions Case
no. 328 of 2025**

The State of Maharashtra

Vs.

Shaikh Rabbani Shaikh Quadir & Ors.

1. Vide present application accused **Shaikh Shabbir Shaikh Farooque @ Bire**, seeks release on bail, under section 483 of the Bhartiya Nagarik Suraksha Sanhita, in respect of **C.R. no. 185/2025** at **Pawarwadi Police station** under sections 109, 189(2), 191(2), 191(3), 190, 351(2), 351(3), 352, 118 (1) and 118 (2) of the Bhartiya Nyay Sanhita, 2023 and sections 3/25, 5/25 and 7/25 of the Arms Act.

2. Learned Advocate for the accused submits that the entire FIR itself is not maintainable for the reason that it springs out from hearsay information gathered by the informant through his brother. It is contended that incidence is stated to be in a public place hotel at about 05:00 p.m., but there is no eye-witness cited in the entire Charge-sheet. Also submitted that Test Identification Parade ought to be conducted for identification of the accused, however any such identification parade has not been conducted.

3. Further submitted that occurrence is dated 29.07.25, this accused was not named in the FIR. Submitted that however police arrested this accused Bire and co-accused Rabbani on 31.07.25. Submitted that this accused was not named in informant's supplementary statement, also. Further submitted that but injured's supplementary statement dated 02.08.25 implicates this accused, without assigning any role, except his mere presence at the spot. It is submitted that this accused has been first arrested in this offence and then implicated therein. Vehemently argued that if at all injured

knew about this accused to be present at the spot of having any role in the occurrence, then he ought to have told it to his brother, at first instance and his name could have been included in the FIR. Stated that, as that not been done, it appears to be a clear case of after-thought and false implication.

4. Further submitted that at the most role attributed to this accused is of having threatened the injured. Further stated that co-accused with similar role are released on bail.

5. Further stated that there are no allegations against this accused of having used any arms or weapons, in the offence, complainant has not stated anything against this accused. There is no recovery or seizure from this accused. Also contended that there is no witness statement against this accused. Also submitted that investigation is completed, Charge-sheet is filed, this accused is not convicted so far, in any offence. Thus, release on bail is contended.

6. Bail application is resisted by filing police say at Exh. 42 and the Ld. APP submitting that these accused knew about co-accused Rabbani to be a dreadful offender, but were alongwith him at the spot, during the time of occurrence; thus were a member of an unlawful assembly. Further argued that therefore, now the role of each member of the said unlawful assembly cannot be segregated, as the FIR alleges sharing of common intention, common object and accused's assembly being unlawful at the spot.

7. Ld. APP further submits that co-accused Rabbani has shot fire-arms at the victim, in an attempt to commit his murder, rendering him seriously and grievously injured. Also submitted that co-accused even assaulted injured Anees on his head, hands and legs

by means of iron pipe.

8. Further submitted that total 9 accused are involved in this offence. Submitted that the name of this accused is stated by the injured. Also submitted that this accused was present in the occurrence with a country made pistol. Also stated that this accused gave memorandum statement dated 04.08.25; therefore cannot be a case of false implication. Argued that therefore injured's supplementary statement gets support from the memorandum narrated by this accused. Argued that there is prima-facie role of this accused. Submitted that even if Charge-sheet is filed, further investigation is yet continuing, as two accused are absconding and are yet to be traced and arrested. Further submitted that this accused is having two criminal antecedents, a habitual offender under the Arms Act, thus, in case this accused is released on bail then pressurizing the informant and influencing the witnesses, cannot be ruled out. Accordingly, bail is resisted.

9. Upon perusing the bail application, the objection filed, copy of FIR, the charge-sheet and hearing the Ld. Advocate for the accused and the Ld. APP, it appears that the FIR is registered by the injured's brother, based upon the information shared to him by the injured. Indeed, FIR does not reveal of informant to be the eye-witness or of having seen any accused at the spot.

10. Allegations of firing gun-shots are against co-accused Rabbani and not this accused. Allegations against this accused Shaikh Shabbir @ Bire, is of having flashed a gun in the occurrence. This accused is under arrest since 31.07.25. Two country-made fire-arms are recovered. This accused is not stated to have made any gun-shot firings. Charge-sheet, accords mere presence, to this accused at the

spot.

11. Indeed, if injured could state the name of co-accused Rabbanni to his brother, while lying injured at the spot, he could also have told the name of this accused to his brother; however, effects of subsequent implication shall be matter for consideration at trial.

12. Nonetheless, the very first statement of injured contains the name of this accused. No doubt, much incriminating role does not appear to have been allocated to this accused. This accused appear to be under arrest since 31.07.25, fact that Charge-sheet is filed against them, implies that investigation stands completed qua him. Fact that some more co-accused are yet at large, they are to be traced and arrested; but settled position is that, this cannot be a ground to deny bail.

13. It is uncertain as to the time investigation agency shall consume to trace and arrest the absconding co-accused, complete the investigation against them and file the Supplementary Charge-sheet, trial to initiate and conclude. Therefore, considering the meager role; rather mere presence attributed to this accused, it appears that keeping this accused arrested any further, shall not yield any fruitful purpose. However, apprehensions raised shall have to be taken care of by subjecting this accused to certain conditions. Hence, the following order.

ORDER

[1] Accused **Shaikh Shabbir Shaikh Farooque @ Bire**, be released on bail, from arrest in connection with **C. R. no. 185/2025** registered at **Pawarwadi Police Station, Malegaon, Tal. Malegaon**, on his furnishing P. R. Bond of Rs. 50,000/- (Rupees Fifty Thousand only), with surety of the like amount on the conditions that :-

(a) Accused shall not tamper the prosecution evidence and shall co-operate with the police machinery as and when required.

(b) Accused shall not pressurize or influence the informant, the injured or any prosecution witness, so as to deter them, from giving evidence.

Date : 20.04.2026

(Y. H. Ameta)
Additional Sessions Judge,
Malegaon.