

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.161 OF 2016

Salim Ahmed Husain Qureshi ... Applicant

Vs.

The State of Maharashtra ... Respondent

Ms.Anjali Patil for the Applicant
Ms.Alpa Javeri, APP, for Respondent – State
Mr.V.K. Torane, PSI, Deonar police station – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 9, 2016**

P.C.:

1. This is an application for bail as the applicant-accused is facing charges under section 307, 323 r/w 34 of the Indian Penal Code in C.R. No.272 of 2015 registered with the Deonar police station, Mumbai. One Salim Ahmed Khan is an informant at whose instance of FIR is registered on 15.9.2015 with Deonar police station. It is the case of the prosecution that the said Salim alongwith victim Sultan was shifting wooden cot and while walking on the road, some verable altercation took place with the co-accused. So, he called the present applicant-accused. He arrived there with bamboo stick. Saleem assaulted Sultan with bamboo on his head and questionined that why he abused his brother. Sultan ran away after receiving a blow of bamboo and they all ran away. However, in the evening, Sultan became unconscious due to the head injury and he was

shifted to the ICU of the hospital. It was diagnosed that he has received serious injuries to his brain. Thereafter, the offence was registered against the applicant-accused and the co-accused Sagir. The applicant Saleem was arrested on 15.9.2015 and hence, this application for bail.

2. The learned Counsel for the Applicant has submitted that it is a case of single blow of bamboo on the head of the victim. The applicant does not have any antecedents. It was sudden fight. The applicant-accused is willing to abide by whatever conditions that may be imposed by this Court.

3. The learned Prosecutor has submitted that the Investigating Officer could not record the statement of the victim because Sultan is still in Coma and he is taking treatment in the hospital. She submitted that the blow of Bamboo stick was so heavy that he suffered very serious injury and therefore still in the hospital.

4. I have perused the FIR, the statements of the witnesses, so also the medical certificate dated 15.9.2015 of Sultan Khan. It shows that there is one injury caused due to the blunt object. It is a head injury and it is described as grievous. It appears from the statements of the witnesses and of the complainant that the assault was not pre-meditated but it is due to the sudden fight which took place between the complainant and the co-

accused. This applicant-accused had arrived on the spot immediately alongwith the bamboo stick as he was called by his brother. It was a single blow on the head i.e., vital part and thereafter Sultan went away running. Chargesheet is also filed.

5. Unfortunately, the victim is in coma and his statement could not be recorded. Considering the nature of the assault and the manner in which the assault has taken place and the applicant is inside the prison since last 5 months, I am inclined to grant bail on the following terms and conditions:

- i) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two local solvent sureties in the like amount;
- ii) The applicant-accused shall not tamper with the evidence;
- iii) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- iv) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent local as well as native place address to the Investigating Officer alongwith documentary proof;

v) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. Bail application is disposed of accordingly.

(MRIDULA BHATKAR, J.)