

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.774 OF 2016

SIRAJ MAQSOODALI SHAIKH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Shri Sandeep Dhuri, Advocate for the Applicant.

Shri S.H.Yadav, APP for the Respondent - State.

CORAM : P. N. DESHMUKH, J.

DATE : 21st JUNE 2016.

PC. :

1 Applicant Siraj Maqsoodali Shaikh, who is involved in
Crime No.531 of 2015 registered on 15th November 2015 by
Dharavi Police Station, Mumbai, for offences punishable under
Sections 307, 452, 504 and 506-II of IPC has sought bail. Learned
counsel for applicant has submitted that applicant in grave and
sudden provocation has committed the offence and as such be
released on bail on imposing stringent conditions, as charge-sheet
is already filed and thus no further investigation is to be carried
out.

2 Perused the copy of charge-sheet. On considering statement on record, particularly that of complainant Mehrunissa Wasim Shaikh it reveals that in the night of incident when she along with her mother and sister Kamrunissa in the presence of Ibrar – their brother and victim involved in this case, and another brother Aftab were present in the house, applicant visited house under the influence of liquor and started abusing, upon which complainant said that applicant was a beggar and he is provided house. On saying so, applicant extended threats to complainant Mehrunissa saying that he would do away with her today and when he was about to enter house, Ibrar closed the door from inside, upon which applicant is stated to have opened the door as he wanted to kill complainant and started hitting it by kicks, due to which door got damaged and when complainant was about to go towards the door, she being pregnant, Ibrar went and opened the door, when immediately on his opening the door, applicant having armed with big knife in his hand, assaulted him on his face due to which Ibrar fell down unconscious.

2 Accordingly, offence came to be registered. During the course of investigation, one knife came to be recovered at the instance of applicant and clothes of victim having blood stained also came to be seized. The blood found on the spot along with seized muddemal articles are stated to be forwarded for its analysis to Chemical Analyser. However, learned APP on instructions states that Chemical Analyser's Report is not yet collected nor prosecution could point out the requisition letter to Chemical Analyser by Investigating Officer. Without going into this aspects, however, on considering statements of other eye witnesses i.e. Saidunissa, Kamrunissa and Aftab, involvement of applicant is squarely established as their statements find corroborated with the statement of complainant on the point of assault and medical evidence from which it appears that immediately after incident, injured was referred to government hospital, where he is stated to have sustained grievous injury to his face, possible by sharp weapon like sickle.

3 Considering the nature of evidence against applicant, he is not entitled for bail, nor from the documents on record it can be said that applicant had committed assault on Ibrar due to grave and sudden provocation, as before commission of assault on Ibrar, from the contents of FIR it reveals that there was conversation between complainant and applicant and then sufficient time had lapsed before applicant entered the house as the door was closed and was opened by victim Ibrar. In that view of the matter, and from the nature of available evidence on record, prima facie it is found that no case is made out for grant of bail, as there is direct evidence against the applicant, corroborating with medical evidence.

4 Application is rejected.

5 At this stage, learned counsel for applicant states that applicant being close relative of complainant as well as that of injured, sessions case be expedited. I am informed that presently Charge is framed in trials of which charge-sheets are filed in the

year 2013-14. Charge-sheet in this case is filed on 12th February 2016. In that view of the matter, I do not find any reason to direct trial court to expedite the trial, however, learned trial court is requested to expedite the trial, after framing of Charge. Needless to say, that the learned trial court shall not get influenced by the observations as aforesaid, and shall decide the trial on evaluating the evidence on record.

(P. N. DESHMUKH, J.)