

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.916 OF 2016

CHAND IDRISH KHAN)...**APPLICANT**

V/s.

THE STATE OF MAHARASHTRA)...**RESPONDENT**

Ms.Tahera A.R.Qureshi a/w. Y.Shaikh, Advocate for the Applicant.

Mrs.Rutuja Ambekar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 3rd AUGUST 2016.

PC. :

1 Heard learned counsel for both the sides. This is an application by accused involved in Crime No.203 of 2001 registered with Nagpada Police Station for the offences punishable under Sections 399 and 402 of Indian Penal Code and Sections 3, 4, 7 and 25 of Arms Act, for grant of bail contending that applicant by order dated 12th July 2001 passed by learned Sessions Judge was released on bail. However, thereafter, as he did not attend the learned trial court on 2nd March 2016, came to be arrested on execution of non-bailable warrant.

2 Learned counsel for applicant has submitted that while in Bombay, applicant has regularly attended the trial court till 2007-08. However, as in July 2008 he was assaulted by mob of persons and had

received grave injuries, could not attend the trial court and thereafter was taken by his family members to his native place. In the circumstances, applicant could not attend learned trial court and in January 2016 returned back to Mumbai and on 2nd March 2016 came to be arrested on execution of non-bailable warrant.

3 It is, therefore, submitted that it is not the case of applicant that he had deliberately and willfully disobeyed the orders of the court or had intentionally fled from justice.

4 Learned counsel for applicant has also invited attention to documents filed with the application.

5 Learned APP opposed the application contending that applicant has committed breach of conditions of bail bond and as such is not entitled for bail.

6 Perused the order dated 12th July 2001 tendered on record where from it reveals that applicant came to be released on bail by the learned Additional Sessions Judge in this crime. From FIR dated 14th July 2008 registered on the strength of report of applicant, it is established that on that day at about 1.30 p.m. applicant was assaulted by mob by chopper and wooden sticks on his head, of which he has lodged report and Crime No.217 of 2008 is registered by Deonar Police Station. Case of applicant is further found substantiated from the medical certificate of J.J.Hospital vide which it reveals that applicant on 14th July 2008 was admitted for sustaining head injuries. In that

view of the matter, above documents substantially prove that on that date, applicant was subjected to assault.

7 Learned trial court while rejecting the application has found that there was nothing placed on record to establish that applicant was assaulted and thus rejected the relief claimed.

8 Having considered the documents as aforesaid, and in view of undisputed fact of applicant while on bail had attended trial court since 2001 to 2008, application is liable to be allowed as learned APP on instructions states that even today, trial has not commenced. In that circumstances, following order is passed :

- i) Applicant shall be released on bail on his executing P.R.Bond in the sum of Rs.10,000/- with one surety in like amount.
- ii) Applicant shall attend before the learned Sessions court on each date of trial without fail and Investigating Officer at Police Station Nagpada pending trial.

(P N. DESHMUKH, J.)