

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1384 OF 2017**

Mukhtar Ahmed Wasiullah Shaikh ... Applicant.
Versus
The State of Maharashtra ... Respondent

....

Mr.Afshan G. for the applicant.
Ms.Anamika Malhotra, APP for the State.

....

CORAM: A.M.BADAR, J.

DATE: 4th October, 2017

PC:-

1. By this application, applicant accused in Crime No.316 of 2016 for the offence punishable under Section 397, 395, 506(2), 427 r/w 34 of the Indian Penal Code and under Section 4 r/w 25 of the Arms Act registered with police Station, Shivaj Nagar, Mumbai at the instance of Sameer Sayyed is seeking his release on bail during pendency of the trial.

2. Heard the learned advocate appearing for the applicant/accused. She argued that the investigation of the crime in question is over. According to her the applicant himself is the victim of the crime in question and the prosecuting party in this crime are accused in Crime No.315 of 2016 registered on the day of the incident itself. The learned advocate drew my attention to the papers of medical treatment of the applicant at the hospital of Municipal Corporation, Greater Mumbai to point out that the applicant had suffered several injuries on his person and was required to be given 62 stitches for severe head injuries. The learned advocate further submitted that as Section 307 of the Indian Penal code was not added to the case diary of the crime in the cross case of the victim, mother of the present applicant was required to file Writ Petition and under directions of this Court, Section 307 of the Indian Penal Code is added in the cross case.

3. I have also heard the learned APP. She submitted that the applicant is having chequered Criminal history. He has suffered three prohibitory and externment orders apart from registration of ten serious crime against him. The learned APP argued that if released on bail the applicant may tamper prosecution evidence or he will not be available to face the trial.

4. I have carefully considered the rival submissions and also perused the chargesheet. It is seen that the incident in question took place as two rival gangs were indulge in extortion in the slum area of Indira Nagar. Both the gangs have lodged First Information Report against each other. In this view of the matter, without there being any tangible material on record, it is not possible to hold that the applicant will indulge in tampering evidence of the prosecution .

5. It is seen that the applicant was also injured in the incident which took place on 7.8.2016 for which Crime No.

315 of 2016 is registered on the basis of report lodged by Sadiq Sayyed. Except the present applicant all other accused are already released on bail. The investigation of the crime in question is over.

6. Merely, because the applicant is having criminal record, his liberty cannot be curtailed, particularly when in the incident in question he was seriously injured at the hands of the prosecuting party. Apprehension of the prosecution can be taken care by imposing stringent conditions on the applicant . Therefore, the following order.

ORDER

- (i) The application is allowed.
- (ii) The applicant/accused is directed to be released on bail on furnishing PR bond of Rs.30,000/- and on furnishing one or more sureties in the like amount.

- (iii) The applicant is directed to stay away from Indira Hutmant area falling within jurisdiction of police station Shivaji Nagar, Mumbai.
- (iv) As a condition of this order the applicant should not contact members of the prosecuting party, witnesses as well as the first informant in any manner.
- (v) The applicant should report Police Station Shivaji Nagar, Mumbai twice in a month i.e on 1st and 3rd Sunday in between 11.00 a.m to 1.00 p.m. till completion of the trial.
- (vi) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to the Police Officer.

- (vii) The applicant/accused shall make himself available for interrogation as and when required by the investigating officer.
- (viii) The applicant/accused shall not leave India without the prior permission of the Court.
- (ix) The application is disposed of accordingly.

(A.M. BADAR, J)