

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 672 OF 2018

1. Salman Salim Ansari .Applicants
2. Abdullah Salim Ansari

Vs.

The State of Maharashtra .Respondent

Mr. M. F. N. Momin i/b. Mr. G. Jain, Advocate, for the Applicants
Ms Pallavi Dabholkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 23.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek their enlargement on bail in connection with C. R. No. I-178 of 2017 registered with the Nizampura Police Station, District – Thane, for the alleged offence punishable under Section 307 r/w 34 of the Indian Penal Code and under Section 12 of the Protection of Children from Sexual Offences Act (for short 'POCSO').

3. Learned counsel for the Applicants submits that a perusal

of the statements of the injured i. e. Roshan, Saban, Sameer, Sarfaraz show that it was co-accused – Salim (father of the Applicants) who assaulted the injured with a knife and not the Applicants.

4. Learned APP does not dispute the fact that the aforesaid injured witnesses have not named the Applicants as being the assailants. She, however, states that the Complainant has mentioned that the present Applicants alongwith co-accused – Salim assaulted the injured persons. Learned APP has tendered the Injury Certificates of the injured persons. The said Injury Certificates are taken on record.

5. Perused the papers. The incident has taken place on 06.09.2017 at 8.00 p. m. when the Complainant had gone to visit her sister. According to the Complainant, juvenile co-accused – Salim held her hand, pursuant to which she went and complained to her sister and brother i. e. Roshan. She has alleged that when Roshan and his friends went to the juvenile accused's house and disclosed about the act of the juvenile accused, the Applicants and co-accused Salim allegedly assaulted the injured with a knife. A perusal of the statements of the injured persons i. e. Roshan, Saban, Sameer, Sarfaraz show that it was co-accused – Salim, who assaulted them with the knife. Each of the

injured persons has categorically mentioned the assault on them and on the other injured by co-accused Salim. The Applicants have not been named by any of the aforesaid injured witnesses. There is no recovery of knife at the instance of the Applicants.

6. Considering the aforesaid, the Application is allowed and the Applicants are enlarged on bail on the following terms & conditions :-

O R D E R

(i) The Applicants be enlarged on bail, on executing PR Bond in the sum of **Rs. 20,000/- each** with one or two local solvent sureties in the like amount;

(ii) The Applicants shall report to the investigating officer of the concerned police station on the **1st Saturday of every month** between **10:00 a. m. and 12:00 noon** till the conclusion of the trial;

(iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicants shall not enter the jurisdiction of the Nizampura Police Station for 12 months except for the purpose of attending the concerned police station;

- (v) The Applicant to cooperate in the conduct of the trial;
- (vi) The Applicants shall file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release;
- (vii) If there are two consecutive defaults in appearing before the trial Court or appearing before the investigating officer of the concerned police station, the prosecution will be at liberty to apply for cancellation of the Applicants' bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)