

Anand

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

BAIL APPLICATION NO. 717 OF 2018

Nawaz Shariff Mustafa Saha .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. S. Saroj a/w Mr. S. Chaudhary i/b. Maharashtra Law Associates,
Advocate, for the Applicant

Mrs. Rutuja Ambekar, 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 Applicant seeks his enlargement on bail in connection with C. R. No. 112 of 2018 registered with the Kandivali Police Station, Mumbai, for the alleged offences punishable under Sections 307, 323, 504 of the Indian Penal Code.

3. Perused the papers. The Applicant is the brother of the Complainant – Sharif Mustafa Saha. The incident took place on 21.02.2018 at 7.00 p. m., when the Complainant and his family i. e. wife

and two children were at home. It is alleged by the prosecution, that the Applicant came to the house and told the Complainant's wife to cook fish for him; that when the Complainant's wife refused to cook fish, as she was unwell, the Applicant abused her and started quarreling with her; that when the Complainant intervened in the quarrel, the Applicant started fighting with the Complainant and picked up the Complainant's daughter, aged 3 years and stated that if the Complainant's wife did not cook fish, he would kill their daughter. The Applicant is, thereafter, alleged to have picked up the Complainant's daughter and thrown her down on the floor and after abusing the Complainant and his wife, is stated to have left the house. A perusal of the Medical Certificate of the Complainant's daughter, aged 3 years shows that the girl has sustained abrasion on her forehead. Fortunately, there are no grievous injuries. It appears that the incident took place on the spur of the moment. As far as submission of the learned counsel for the Applicant is concerned, no offence as alleged under Section 307 is disclosed, the same is a matter which will be decided by the trial Court. The Applicant is in custody since 22.02.2018. Investigation is complete.

4. Considering the aforesaid and the age of the Applicant (19 years), the Application is allowed and the Applicant is enlarged on bail

on the following terms & conditions :-

ORDER

- (i) The Applicant be enlarged **on cash bail** in the sum of **Rs. 20,000/-** for a period of six weeks from today;
- (ii) The Applicant shall within the said period of six weeks, furnish P. R. Bond in the sum of Rs. 20,000/- with one or two local solvent sureties in the like amount;
- (iii) The Applicant shall report to the investigating officer of the concerned Police Station on the **first Monday & Friday of every month** between **10:00 a. m. and 11:00 a. m.** till the filing of the charge-sheet and thereafter, on the first Sunday of every month between 10.00 a. m. and 11.00 a. m. till the conclusion of the trial;
- (iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The Applicant shall not enter the area of the Kandivali Police Station, Mumbai, except for the purpose of reporting to the police station;
- (vi) The Applicant to cooperate in the conduct of the trial;
- (vii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or

change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(viii) 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 Applicant's bail.

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

6. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

(REVATI MOHITE DERE, J.)