

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

CRIMINAL BAIL APPLICATION NO. 1892 OF 2018

Uneb Nasir Kewal	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Kanishk Jayant a/w Mr. Nilesh Mandavkar I/by M/s. Res Juris
Advocate for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 8th OCTOBER, 2018.

P.C.

1. This is an application for bail in connection with C.R. No. I-85 of 2018 registered with Naya Nagar Police station on 3rd February, 2018. The offences were registered under Sections 307, 436, 440, 342 read with 34 of Indian Penal Code.
2. The prosecution case is that the complaint was lodged by Miss. Rufi Zuber Inamdar on 3rd February, 2018. It is alleged that at about 3.30 a.m. the complainant heard sound from the hall of the house. Hence, she woke up and noticed that the main door of the house and the wooden showcase adjacent to the house had caught fire. Sister of the complainant also woke up and came to the hall. Both of them switched off the electrical connection and gave a call to their neighbour and informed them that their house

has caught fire. The neighbours came to the spot and extinguished the fire. The neighbours also opened the door which was closed from outside. It was noticed that the front door was completely burnt. It was further noticed that plastic bisleri bottle was found at the spot in burnt condition. The information was provided to the police. The CCTV footage is installed near the house is also verified. On verifying the CCTV footage it was noticed that at about 3.20 a.m. on 3rd February, 2018 Asif Anwar Khan had come near the front door of the house of the complainant. He was carrying the bottle filled up with kerosene. He closed the door from outside. He poured the kerosene and light the said from lighter and ran away from the place of incident in the four wheeler alongwith the person who was sitting in the said vehicle. It is further alleged that the father of the complainant was the local corporator and he was protesting against alcoholics drinking in open area. Some persons used to consume alcohol on the road, behind Masjid at Naya Nagar area. The complainant's father had deprecated such behaviour and also lodged the complaint. The said persons were infuriated with the said fact and on account of the action initiated by the complainant's father, the applicant and Asif Khan were enraged. The accused had closed the door from

outside and poured the kerosene on the door of house and lighted the fire. The applicant was arrested on 3rd March, 2018.

3. Learned counsel for the applicant submitted that the applicant is in custody from the date of arrest. Investigation is completed and the chargesheet has been filed. Further custody of the applicant is not necessary. The applicant was not present at the place of incident. It is further submitted that the applicant has been falsely implicated in this case. There is no evidence to corroborate the applicant involvement in the crime. CCTV footage do not show the presence of the applicant. Co-accused is visible in the said CCTV footage. Investigation is completed and the chargesheet has been filed. There is no direct evidence regarding the applicant's role in the alleged crime. The applicant has been falsely implicated on account of political rivalry. He had recently joined the political party. The father of the complainant is the local corporator. The offence under Section 307 of Indian Penal Code is not made out. Learned counsel for the applicant relied upon the decision in the case of Sanjay Chandra & Others Vs. CBI and another¹. It is submitted that in the light of ratio laid down in the said decision, the applicant may not be subjected to

1. 2012(1) SCC 40

further detention.

4. Learned APP opposed the grant of bail. It is submitted that the accused had created terror in the locality. The offence is serious. The applicant had extended help to accused No.1 in commission of crime and thereby abetted him to commit the offence. The statement of the witnesses indicate involvement of the applicant in the crime. The statement of witnesses shows the involvement of the applicant in the crime. There is recovery of motor-cycle from the applicant. It is further submitted that there are antecedents against the applicant.

5. Applicant had preferred an application for bail before the Sessions Court which was rejected by order dated 7th July, 2018. While rejecting the said application, it was observed that on perusal of the material placed on record, it appears that accused No.1 had set the house of informant on fire. After setting the house on fire, applicant took accused No.1 him by his motor-cycle. CCTV footage shows that prior to the incident, the applicant and other accused had discussions. There is evidence indicating the involvement of the applicant. It is pertinent to note that the prosecution case is that on account of consumption of alcohol in open place, the complainant's father had lodged protest and hence

the accused were on enemical terms with the complainant's father. In the wee hours the accused had set the house of the complainant on fire. There was every likelihood of the incident of fire causing danger to the life of inmates of the house. The offence alleged against the accused were punishable with severe punishment. There is evidence showing involvement of the applicant in the crime. The statement of Sajjid Motlekar was recorded during the course of investigation. He has stated that on 2nd February, 2018, the witness met the applicant. Both consumed liquor in the hotel. At that time, the applicant had stated to the said witness that he would retaliate against the complainant's father. Witness should not disclose the same to any other person. The applicant was creating terror in the area and due to threat the witness did not inform the incident to any person. The applicant also gave a call to him to find out whereabouts of Asif and thereafter the applicant and Asif met and all three of them were hide on Masjid gali. The witness then left for his house. The statement of Mohd. Qureshi refers to the fact that on 3rd February, 2018, he had gone out for dinner alongwith his friends. At about 3.15 a.m. while he was returning home he had gone to Nayanagar area to drop his friend and he noticed that applicant and Asif Khan were proceeding on

scooty. Asif Khan was carrying some article like bottle in his hand. After sometime applicant and Asif Khan came near Nihal hotel. Thereafter both of them had dispersed. The statement of Mohd. Shaikh mentions that at about 3.15 a.m. he saw person wearing helmet driving scooty and he identified him to be applicant. After sometime one person came running from Smruti building and sat on his scooty and both of them left the place. The statement of some of the witnesses were recorded under Section 164 of Code of Criminal Procedure. Thus, the evidence collected during the course of investigation disclosed the involvement of the applicant in the said crime. The offence is of a serious nature. There are antecedents against the applicants. In the circumstances, no case for grant of bail is made out. Hence, I pass the following order.

ORDER

- i. Criminal Application No. 1892 of 2018 is rejected;
- ii. In the event, trial does not commence within a period of six months from receipt of this order, applicant will be at liberty to prefer fresh application for bail before this Court.

Sachidanand
Kuttan Nair

Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.11.15
10:45:49 +0530

(PRAKASH D. NAIK, J.)