

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

CRIMINAL BAIL APPLICATION NO. 2042 OF 2018

Majeed Moiddin Khan	... Applicant
Vs.	
State of Maharashtra	... Respondent

...

Mr. R.V. Gupta for the applicant.
Mr. Y.M. Nakhwa, APP for the Respondent-State.

...

**CORAM : PRAKASH D. NAIK, J.
DATE : 24th OCTOBER, 2018.**

P.C.

1. This is an application for bail in connection with C.R. No. 249 of 2016 registered with Shivaji Nagar Police Station for the offence punishable under Sections 452, 307, 394, 354, 323, 504, 506(2), 34 of Indian Penal Code and Section 8 of POCSO Act. The applicant was arrested on 8th September, 2016. The First Information Report was lodged on 1st July, 2016.

2. The case of the prosecution is that on 1st July, 2016, the complainant Ajamtunisa Mohd. Amir Shah lodged her complaint with Shivaji Nagar Police Station alleging that while the informant was returning home, accused stopped the informant and asked her “where is Lala”. Accused was informed that he is in jail. Accused stated that she is lying and abused the informant in filthy

language. He also threatened her of dire consequence. He also threw stone towards her. At about 7.30 p.m on the same day, complainant's husband and son went for Namaz. Complainant went out for stroll. Victim and son of the informant were at home. When the informant came at about 8 p.m. it was found that all the articles were scattered in the house. The victim and the son of the informant were in disturbed state of mind. On inquiry victim told her that the applicant/accused and other had entered into their house and inquired about Lala and when they were told that he is in jail, the accused assaulted the victim and torn her clothes. They also assaulted son of the informant. Informant searched the house, she found some cash and ornaments were missing from the house. Thereafter she went to Jaibunnisa who is residing in the same vicinity. The complainant thereafter informed that the accused had assaulted Irfan by weapon like Khanjir. The applicant was armed with Khanjir and other accused Gabbar was armed with iron rod.

3. In pursuant to that applicant was arrested. Investigation is completed and chargesheet has been filed. Learned advocate for the applicant submitted that he has been falsely implicated in this case on account of dispute with the son of the informant.

Applicant has been arrested on 8th September, 2016 and since then he is in custody. It is further submitted that injured Irfan had sustained simple injuries which is apparent from the injury certificate. It is submitted that applicant is willing to comply any stringent condition imposed by this Court, if bail is granted.

4. Learned APP submitted that the applicant has been attributed specific role in the crime. He has committed the offence under Section 307 and Section 354 of Indian Penal Code alongwith other penal provisions. The applicant had created terror in the area and he was armed with Khanjir and assaulted the injured Irfan. He also outraged the modesty of the daughter of the victim. It is further submitted that applicant and other accused also gave threats to complainant's children and removed the cash and other valuable articles from the house of the informant. It is further submitted that applicant is having criminal antecedents. Learned APP tendered the report with regards to the criminal antecedents of the applicant. It is submitted that apart from the present case, nine other cases were registered against him. Learned counsel for the applicant however submits that he is on bail in all those cases. He is not concerned with the CR No. 588 of 2015 and CR No. 374 of 2016. Other cases are pending in Court.

5. On perusal of the First Information Report, it is apparent that overt act has been attributed to the applicant. The applicant was arrested on 8th September, 2016 and he is in custody since last two years. I have perused the injury certificate of injured person Irfan. The injuries sustained by him are simple in nature. It is true that there are criminal antecedents against the applicant. The offence under Section 354 of Indian Penal Code is punishable with imprisonment for three years. There is no recovery from applicant. Investigation is completed and chargesheet has been filed. The applicant is in custody since last two years. Considering the totality of the circumstances, bail can be granted to the applicant on stringent conditions.

ORDER

- i. Bail Application No. 2042 of 2018;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 249 of 2016 registered with Shivaji Nagar Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant shall not enter within the jurisdiction of Shivaji Nagar Police Station;
- iv. Applicant shall attend the nearest Police Station where he

would be residing once in a month on first Saturday of the month between 10 a.m. and 12 noon till the conclusion of the trial;

v. Applicant shall furnish details about his residence to the Investigating Officer after he is released on bail;

vi. Applicant shall attend the trial Court on the date of hearing of the case regularly unless exempted by the Court for some reason;

vii. Applicant shall not tamper with the evidence and/or influence the prosecution witnesses;

viii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair
Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.10.30
11:35:02
+0530