

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

**CRIMINAL BAIL APPLICATION NO. 2139 OF 2018**

|                                  |                |
|----------------------------------|----------------|
| Arbaz @ Rahmatullah Bashrat Khan | ... Applicant  |
| Vs.                              |                |
| State of Maharashtra             | ... Respondent |

...

Mrs. Roshni J. Singh for the applicant.  
Mr. Y.Y. Dabke, APP for the Respondent-State.

...  
**CORAM : PRAKASH D. NAIK, J.**  
**DATE : 3<sup>rd</sup> OCTOBER, 2018.**

**P.C.**

1. This is an application for bail in connection with C.R. No. 47 of 2018 registered with Wadala T.T. Police Station for the offences punishable under Sections 307, 324, 504, 506(2) read with 34 of Indian Penal Code. The applicant was arrested on 15<sup>th</sup> February, 2018.

2. The prosecution case is that in December, 2017, the informant went to Kerala for carrying the work of POP with the applicant for one month and he was to recover an amount of Rs.3000/- from the applicant. But the amount was not paid by the applicant whenever demanded. The applicant abused the informant and tried to assault him with the help of brother-in-law.

The informant is resident of Mumbai.

3. On 13<sup>th</sup> February, 2018, informant's friend informed him that applicant has returned to Mumbai and he is searching the informant to assault him. On 14<sup>th</sup> February, 2018, the applicant called the informant at Koyla Galli Sangam Nagar for returning the amount to him. The informant alongwith his friend went to Koyala Galli to meet the applicant. Applicant and his friend Mangya assaulted the informant and when his uncle tried to intervene he was also assaulted. Applicant assaulted the victim on his head and every part of his body. When the uncle of the victim tried to intervene co-accused Mangya stabbed the uncle of victim on the abdomen by using a knife. Therefore, the FIR was lodged against the applicant and co-accused.

4. Learned counsel for the applicant submits that offence under Section 307 of Indian Penal Code would not be attracted in this case. The role attributed to the applicant is assaulting the informant who had sustained three injuries, which was not serious in nature. It is further submitted that the informant was treated on the hospital three days after alleged assault. He had suffered injury in the nature of CLW at Nasal bridge and CLW at right side of face. He was not hospitalised and was treated in OPD. It is

further submitted that injured Mohd. Salim was assaulted by co-accused Mangya by using knife. The assault upon Mohd. Salim was at the spur of moment since he is tried to intervene in the quarrel. There was no intention to commit murder of injured persons. Applicant is in custody from the date of arrest. Investigation is completed and chargesheet has been filed.

5. Learned APP submitted that the applicant was armed with the weapon and co-accused Mohd. Salim was also armed with the knife. Both of them assaulted the injured persons. Applicant caused two injuries to the victim by giving blows on his head and other parts of the body. Co-accused Mangya also assaulted victim's uncle Mohd. Salim by giving blow on his abdomen and other parts of body. There was a clear role attributed to the applicant.

6. Having heard both the sides and have perused the chargesheet. Applicant had allegedly assaulted the informant who had sustained two injuries. Medical certificate indicate that he was examined and treated on the third day of the assault. It is alleged that the applicant had given by blow knife on head of the informant but there is no corresponding injury on the head. Other person who was tried to intervene was assaulted by co-accused

with knife.

7. Considering the nature of role attributed to the applicant and also considering that the applicant is in custody from the date of arrest, further detention of the applicant is not necessary. There are no criminal antecedents against the applicant. Hence, the case is made out for grant of bail. I pass the following order.

### **ORDER**

- i. Criminal Bail Application is allowed;
- ii. The applicant is directed to be released on bail in C.R. No. 47 of 2018 registered with Wadala T.T. Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant shall attend Wadala T.T. Police Station once in a month on first Monday between 10 a.m to 12 noon till further order;
- iv. The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;
- v. Criminal Bail Application stands disposed off.

**( PRAKASH D. NAIK, J. )**

Digitally signed  
by Sachidanand  
Kuttan Nair  
Date:  
2018.10.08  
14:58:38  
+0530

Sachidanand  
Kuttan Nair