

Anand

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

BAIL APPLICATION NO. 2111 OF 2017

Maaz Ayub Khan .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Ganesh Rangayya, Advocate, for the Applicant
Mr. S. S. Hulke, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.04.2018

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. 360 of 2016 registered with the Shahu Nagar Police Station, Mahim, Mumbai, for the alleged offences punishable under Sections 307, 324, 323, 504 of the Indian Penal Code and under Sections 37(1) & 135 of the Maharashtra Police Act.

3. Perused the papers. According to the Complainant – Abhishek Manoj Dulgaj, the incident took place on 26.09.2016 at around 10.15 p. m.. He has alleged that he saw the Applicant assaulting

Sagar (injured) with a knife as well as assaulting other persons i. e. Aatish & Vishal with fist & kick blows. He has alleged that when he intervened to save Sagar & Aatish, the Applicant also assaulted him with a knife. He has further stated that Vishal assaulted the Applicant, to save the Complainant and that thereafter, all the injured ran away from the spot to save themselves. Pursuant to the incident, the Complainant went home and informed his brother, who took him to the Sion Hospital for medical treatment. Learned counsel for the Applicant submitted that in the said incident, the Applicant was infact, assaulted by six people with bamboo sticks and that the Applicant and his brother – Harjal have also received injuries. He further submitted that in the history given to the Doctor, in Sagar's Injury Certificate shows, that it was an assault by one unknown person with a sharp weapon. He submits that admittedly, Sagar & the Applicant were known to each other and hence, it is doubtful whether the Applicant was the assailant. He further submits that the Applicant is aged 19 years and requires re-habilitation and that Prayas will be taking the responsibility of the Applicant for his re-habilitation. Learned counsel for the Applicant has also tendered an Affidavit of the Applicant's parents. The said Affidavit is taken on record, wherein they have undertaken to supervise his day to day activities and have also taken full responsibility of the Applicant's

re-habilitation and that he would not enter the area of the Shahu Nagar Police Station, where the incident had taken place and where the witnesses are residing. A perusal of Sagar's Injury Certificate shows that Sagar has sustained one grievous injury and two simple injuries. It is also pertinent to note that the history given to the Doctor was not by Sagar himself, but by his friend Vinay and hence, prima facie, it appears that it is mentioned as assault by 'one unknown person'. The Injury Certificates of Abhishek Dulgaj (Complainant), Vishal & Aatish show that they have received simple injuries. The Injury Certificates of Maaz (Applicant) and his brother - Harjal also show that they have received simple injuries. In the history given to the Doctor, the Applicant has given history of assault by six people. The Applicant has one antecedent against him. The Applicant is in custody since September, 2016. Investigation is complete & charge-sheet is filed. Having regard to the peculiar facts of the case and also the age of the Applicant and the Affidavit given by the Applicant's parents, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

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

like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **first and third Sunday of every month** between **10:00 a. m. and 11:00 a. m.** till the conclusion of the trial;

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

(iv) The Applicant shall not enter the jurisdiction of the Shahu Nagar Police Station except for the purpose of marking his attendance as given above in Clause (ii);

(v) The Applicant to cooperate with the conduct of the trial;

(vi) The Applicant 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, the prosecution will be at liberty to apply for cancellation of the Applicant's bail.

4. 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.)