

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

CRIMINAL BAIL APPLICATION NO. 2681 OF 2018

Salim Mukadam Ansari

... Applicant

Vs.

The State of Maharashtra

... Respondent

...

Ms. Trupti M. Khamkar for the applicant.

Mr. S.R. Agarkar, APP for the Respondent-State.

Mr. Santosh Ghotekar, Police Inspector, Nizampura Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 26th NOVEMBER, 2018.

P.C.

1. This is an application for bail in CR No. I-178 of 2017 registered with Nizampura Police Station for the offence punishable under Section 307 read with 34 of Indian Penal Code and Section 12 of POCSO Act.

2. The prosecution case is that the incident had occurred on 6th September, 2017 at about 8 p.m. when the complainant had gone to visit on her sister. According to the complainant, juvenile accused Abu-Bakar Salim Ansari caught hold of her hand and in pursuant to that she intimated the said incident to her sister and brother. Thereafter the brother of the complainant and his friend went to the house of juvenile. Roshan, Saban, Samir and Sarfaraz

were assaulted. According to the prosecution, the applicant is the person who was holding knife and in the quarrel which had erupted between the parties, accused had assaulted who Roshan, Saban, Samir and Sarfaraz. It is alleged that the applicant is the father of the co-accused Abu-Bakar Salim Ansari who assaulted by knife on chest of Saban. Samir was assaulted by knife on the back, Sarfaraz was also assaulted on his back.

3. It appears that the injured Saban Qureshi had sustained one injury on the lower part of the chest which grievous in nature. The injured Sarfaraz sustained injury on his back which is simple in nature and Samir had also sustained injury which was grievous in nature. Applicant is arrested on 8th September, 2017. The investigation is completed and the chargesheet has been filed. Learned counsel for the applicant submitted that the cause of incident was holding of hand of the complainant by the minor accused. There was no intention to commit murder. When the injured persons visited the house of the accused for confrontation, the quarrel had taken place which has resulted in the assault. The offence under Section 307 of Indian Penal Code is not made out.

4. Learned APP submitted that specific overt act has been attributed to the applicant. The injury certificate of the injured

supports the case of the prosecution.

5. On perusal of the documents, it appears that juvenile accused has held the hands of complainant. There was a quarrel between two groups which has resulted in the incident. Considering the role attributed to the applicant, and that he is in custody for almost one year, investigation is completed and chargesheet has been filed, there are no criminal antecedents against the applicant, he can be released on bail with certain terms and conditions.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. I-178 of 2017 registered with Nizampura Police Station, Mumbai on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant is permitted to furnish cash security of Rs.25,000/- for a period of four weeks.
- iv. Applicant shall stay out of the jurisdiction of Nizampura Police Station till the conclusion of the trial.
- v. Applicant shall furnish documents relating to his residence to the investigating officer after he is released on bail;

- vi. Applicant shall not tamper with evidence;
- vii. Applicant shall attend the dates of hearing before the Trial Court, unless exempted for some reasons;
- viii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)