

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

CRIMINAL BAIL APPLICATION NO. 2148 OF 2018

Mohammed Shahzad @ Sajju Yakub Malik ... Applicant

Vs.

The State of Maharashtra ... Respondent

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Mr. Sudeep Pasbola a/w Mr. Karl Rustam Khan I/by Mr. Rahul Arote for the applicant.

Mr. A.R. Kapadnis, APP for the Respondent-State.

Mr. Jaybhaye, PSI, Mulund Police Station.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th JANUARY, 2019.

P.C.

1. This is an application for bail in connection with CR No.330 of 2017 registered with Mulund Police Station and charge with commission of offences punishable under Section 307, 342, 364, 114, 323, 504 read with 34 of Indian Penal Code. FIR was lodged by Smt. Fatima Khan, aunt of victim Nasir Shaikh. Applicant is the resident of same locality. He was having grudge against the victim as he had torned the banner of the applicant which was displayed in the locality. On 24th August, 2017 at about 11 a.m, the applicant alongwith other accused accosted the victim Nasir Sheikh and took him to another place and removed his clothes. He was assaulted by belt, kicks and fist blows. Thereafter some oil and petrol was poured on his private part of the victim. He was

also set on fire. The victim had sustained injuries on his body.

2. Learned advocate for the applicant submitted that the offence under Section 307 of Indian Penal Code is not made out. The injuries which was sustained by the victim were simple in nature. The facts did not support the case of attempt to commit murder. Applicant is in custody from the date of arrest. Investigation is completed and chargesheet has been filed. It is further submitted that the other accused were granted bail.

3. Learned APP submitted that specific overt act has been attributed to the applicant. It is submitted that applicant has played a major role in the crime. Applicant had prevented the complainant from lodging the complaint and for getting treatment. Applicant is having criminal antecedents. Thirteen cases were registered against him. Medical evidence corroborates the statement of the complainant and other witnesses. There are eye witnesses to the incident.

4. Learned counsel for the applicant further submitted that in four cases the applicant has been acquitted. It is further submitted that applicant was arrested on 7th February, 2018. FIR was lodged on 24th March, 2018. Learned counsel for the applicant further submitted that applicant had preferred an application for

anticipatory bail which was rejected and thereafter the applicant was arrested. Learned counsel for the applicant further submitted that there is a delay in lodging the FIR.

5. I have perused the documents on record. It is apparent that FIR was lodged on 26th August, 2018. The apparent that the victim was subjected to assault by the applicant and other accused. The applicant has played a major role in the crime. Petrol and oil were poured on the private part of the victim. Victim was also subjected to burn injuries. Several cases are registered against the applicant. The statement of the complainant also indicate that the applicant had prevented the injured from taking treatment at Government Hospital. The police had recorded the statement of injured and other witnesses. The version of the complainant is corroborated by medical certificate issued by the L.T.M.G. Hospital, Sion. Applicant was apparently absconding after registration of FIR. After taking into consideration all aspects, I do not find the case for grant of bail is made out. Hence, application stands rejected.

(PRAKASH D. NAIK, J.)