

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

CRIMINAL BAIL APPLICATION NO. 76 OF 2021

Wasim Shakil Khan

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Satyavrat Joshi, for Applicant.

Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 13th JANUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 735 of 2019 registered at Kondhawa police station, under sections 307, 504, 506(2) r/w. 34 of the Indian Penal Code (for short 'IPC'). The applicant is arrested on 28/08/2019 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. The First Information Report (for short 'F.I.R.') is lodged on 27/08/2019 by one Rehan Mahavat. He has stated that, on that day at about 3:30p.m. he was travelling on his two

wheeler. He was accompanied by his friend Arbaz Shaikh and Shahanawaz Shaikh. While they had reached the road on the back side of Shalimar society, accidentally, another two wheeler intercepted informant's two wheeler. The riders on that two wheeler started abusing the present informant and his friends. They were known people. They were named as Adil and the present applicant. The incident escalated further. Adil and present applicant used a blade and gave blows on the neck and throat of the informant Rehan and his companion Shahanawaz. Their other companion Arbaz was also assaulted. Thereafter the injured were removed to Sana Hospital, where they were treated.

3. Heard Shri. Satyavrat Joshi, learned counsel for the applicant and Smt. Lohokare, learned APP for the State.

4. The learned counsel for the applicant submitted that, none of the injuries was life threatening injury and, therefore, section 307 of IPC is wrongly applied. He submitted that the applicant is a young boy 22 years of age, therefore, leniency may be shown to him. He was arrested on 28/08/2019 and since then he is in custody. His further custody for the entire period of trial is

not necessary. The investigation is already over.

5. The learned APP opposed this application on the ground that the manner in which assault took place shows criminal nature of the applicant. She has submitted that, one of the injury required 30 staples on the throat showing that it was a life threatening injury. She, therefore, submitted that the applicant does not deserve any sympathy and considering the nature of evidence against him, bail should not be granted to him.

REASONS:

6. With the assistance of learned counsel for the applicant and learned APP, I have perused the charge-sheet. Besides first informant, there are statements of other witnesses including injured eye witnesses. There are statements of Arbaz and Shahanawaz who are injured, supplementary statement of the informant himself and statements of other eye witnesses namely Ismail, Rahil and Tausif. Their statements are consistent. The prosecution case through these eye witnesses is that, after the initial quarrel between the informant and the accused, accused Adil and present applicant kept blade between their fingers and

slashed the throat and neck of the injured Rehan and Arbaz. There is recovery of that blade at the instance of present applicant. The injury certificate shows that Rehan had suffered two wounds; the first one was 10cm x 1cm and the second one was 8cm x 2cm in dimension. It was a deep wound and required 30 staples. Arbaz had suffered deep wound of the dimension 3cm x 1cm near his left ear. Shahanawaz had suffered superficial abrasion. Looking at the injuries, it is clear that there was an attempt to commit murder as the assault was on the vital parts with sharp weapons. Though the applicant is a young boy, looking at his nature, he has already turned into a hardened criminal. Therefore, no leniency can be shown to him. No case for bail is made out.

7. The application is rejected.

(SARANG V. KOTWAL, J.)