

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.728 OF 2021

Mohammed Sayyed @ Munna s/o
Rubab Sayyed .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Jigar Agarwal i/b Shaikh Shafi Ahmed for the applicant.
Mr. Swapnil S. Pednekar, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 14th SEPTEMBER 2021

P.C:-

1 The applicant who has been charge-sheeted in C.R.No. 200/18 with an offence punishable under Section 302, 326, 341, 504 read with Section 34 of the IPC, seek his release on bail. Parity is claimed with co-accused Irfan Qureshi (Accused no.2) who has been released on bail by this Court on 3rd August 2021. The said order is placed before me.

2 On 20th September 2018, an FIR came to be lodged by one John Philip Randive, alleging that while he was chit-chatting along with the victim, the accused persons who were driving an auto-rickshaw came close to them. The complainant

and the victim were accosted and they came to be assaulted by means of bamboo stick by accused persons. As far as the complainant is concerned, he take name of two of the accused persons being Papa Machhi and Imran Batla and state that they were accompanied by two unknown friends who assaulted the complainant and the deceased Imran Abdul. The deceased sustained injuries and succumbed to them on the next date.

3 The post mortem report of Imran Abdul disclose the cause of death to be 'head injury' and column no.17 record a Sutured wound over left parieto temporal region of length 5 cm and one contusion over left arm anteriorly 6 x 2 x 5 cm. Column No.19 record two internal injuries and based on the same, the cause of death has been opined.

4 Learned APP has placed reliance on a statement of one eye witness Akbar Pathan recorded on 22nd September 2018 which is compiled in the charge-sheet and his submission is that the applicant has been specifically named by the said witness. When the statement is perused, the version of Akbar is that he was a by-stander and he noticed a fight which was ensued and when he carefully noticed the said fight, he saw his friend Imran being assaulted by three named accused persons with bamboo sticks in their hand. He state that he was assaulted in head, back, leg and there were 10 to 15 persons who were present nearby, but

nobody attempted to intervene. The complainant who himself is an injured do not take name of the applicant and it is submitted that the applicant is not even subjected to Test Identification Parade, on the pretext that he was housed in some other jail and therefore, it was not convenient to put him for Test Identification Parade.

5 Considering the role attributed to the applicant, it is similar to the one attributed to Irfan Qureshi (Accused No.2) who is released on bail on 3rd August 2021. Noting that the arrest of the applicant is effected on 1st November 2018 and there is no progress in the trial and till date, even charge has not been framed, I see no reason why benefit of the order passed on 3rd August in case of Irfan cannot be extended to the present applicant.

6 Considering the *prima facie* case against the applicant on merits and in the wake of the role attributed to him, the applicant is held entitled to be released on bail. Hence, the following order :-

ORDER

- (a) The Applicant – Mohammed Sayyed @ Munna s/o. Rubab Sayyed in connection with C.R.No.300 of 2018 registered with Deonar Police Station shall be

released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(c) The Applicant shall report to the police station on 1st Thursday of every month between 10.00 am to 2.00 p.m till framing of charge and thereafter, he shall abide by the directions of the concerned Court.

7 The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J