

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

**CRIMINAL BAIL APPLICATION NO.1302 OF 2021**

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**WITH**

**INTERIM APPLICATION NO.1745 OF 2021**

**IN**

**CRIMINAL BAIL APPLICATION NO.1302 OF 2021**

Harish Shrinivas Perumal

.... Applicant

Versus

The State of Maharashtra

.... Respondent

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Ms. Jayshree Tripathi, Advocate for the Applicant.

Mr. H.J. Dedhia, APP for the Respondent-State.

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**CORAM : SARANG V. KOTWAL, J.**

**DATE : 06<sup>th</sup> AUGUST, 2021**

**P.C. :**

1. The applicant is seeking his release on bail in connection with C.R.No.277/2020 dated 6.9.2020 registered at Juhu police station, Mumbai under Section 307 of the Indian Penal Code and under Section 37(1)(a) of the Mumbai Police Act. The applicant was arrested on 6.9.2020 and since then he is in custody. The investigation is over and the

charge-sheet is filed.

2. Heard Ms Jayshree Tripathi, learned counsel for the applicant and Shri H.J. Dedhia, learned APP for the State.

3. The prosecution pertains to the assault on one Sameer Sayyed. The date of incident is 6.9.2020 and the time is around 2:30 p.m. The prosecution case is revealed from the statement of the injured Sameer. He has stated that about two weeks' prior to the incident there was a quarrel between Sameer's elder brother Subhan on one hand and the applicant and accused Nagesh on the other. On the date of incident, suddenly Nagesh and the present applicant started quarreling with the victim Sameer. He tried to save himself by running towards the Patra Compound. Sameer has further stated that inside the compound one Kolanji Perumal was present and he said something to the applicant and Nagesh in their mother-tongue which Sameer could not understand. The victim Sameer tried to come out of that compound and he was running towards the gate. He was chased by Nagesh and the present applicant and they started beating him. It is

mentioned that Nagesh and the applicant then took out a knife and stabbed it in his stomach. The victim then started running towards a nearby lane. He fell down on the road near a tailor's shop and became unconscious.

4. The FIR in this case was lodged by Sameer's mother. She has involved more persons in this case, namely, Suresh and Rakesh. She has stated that Kolanji Perumal had held Sameer from behind. Nagesh and the applicant had knives in their hands and both of them stabbed their knives in the victim's stomach. Suresh assaulted with kick and fist blows. The FIR was lodged on all these allegations.

5. Learned counsel for the applicant submitted that the allegations are against many persons. However, at the time of filing of the charge-sheet, the investigating agency had reported that except the applicant, all other accused, namely, Nagesh, Suresh and Kolanji had *alibi* which was acceptable. According to the investigating agency they were not present at the spot of incident when the incident had allegedly taken place.

6. Learned counsel for the applicant submitted that it shows that the victim, first informant and other eye witnesses are falsely implicating all the accused, including the present applicant. Their statements are not reliable and, therefore, the prosecution case itself becomes weak.

7. She submitted that there is only one stab injury. The victim has survived and the offence has not escalated to a higher degree. Even that injury, from its dimensions, does not appear to be a life threatening injury.

8. Learned APP opposed this application based on the statements of the victim, the informant and other eye witnesses. He submitted that a knife was recovered at the applicant's instance from his house. This is also an additional circumstance.

9. I have considered these submissions. The medical certificate regarding Sameer's injury mentions that he has suffered one stab injury of the size 1 cm x 0.5 cm on the right side at 9<sup>th</sup> intercostal space. It was described as a grievous

injury. Beyond this certificate, there is no further information about the nature of injury.

10. Besides the first informant and the victim, there are statements of other eye witnesses as follows:

. Rizwan Khan has stated that he had seen the applicant assaulting the victim with a knife. Nagesh was assaulting him with fist and kick blows. He had also seen Kolanji inside that Patra Compound and he was shouting. Thus, this witness has implicated all the accused, including the persons who are given benefit by the investigating agency and who are not made accused at the time of filing of the charge-sheet. He has stated that the victim was taken inside a tailor's shop. The shutter was closed and even then Nagesh, Kolanji and the applicant were shouting that they would kill him and they were banging on the shutter.

. Other eye witness Rizwan Shaikh has stated that the applicant had stabbed Sameer in his stomach. After that the victim escaped from their clutches and went away.

. Rajkumar Gupta has also seen the incident. He has referred to the stab injury and he has stated that there was a sudden quarrel and this incident took place. He has stated that after that all the accused ran away.

. Witness Laxmi Kailas has stated that Chinny's son (perhaps referring to the applicant) had stabbed the victim and both of them ran away from the spot.

11. Thus, as far as the witnesses are concerned the prosecution case is slightly different. It does appear that the incident had happened in a sudden quarrel. Only one stab injury was given to the victim. Depth of the injury was not mentioned. Therefore, at this stage, it is difficult to make observations about exact nature of the injury.

12. The victim had survived the assault. The applicant as well as the victim had run away from the spot. Therefore, theory of the chase and the victim being taken inside a shop is not supported by other eye witnesses. The

recovery evidence is a corroborative piece of evidence. In this case, the knife was found from his house.

13. The important feature in this case is about involvement of at least three persons who were named by the victim and his mother as having taken part in the incident. These allegations are found to be false by the investigating agency. Therefore, the prosecution case becomes doubtful. Even otherwise, the other eye witnesses have stated that the incident had occurred in a sudden quarrel. The applicant had given only one blow with knife. The victim himself has stated that Nagesh as well as the applicant has given blows with knives, but, there is only one stab injury. The offence has not escalated to a higher degree and sufficient doubt is created about the prosecution case.

14. On the basis of above discussion, the applicant deserves to be released on bail. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No.277/2020 registered with Juhu police station, Mumbai, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly. With the disposal of main application, Interim Application No.1745/2021 also stands disposed of.

Digitally signed  
by  
PRADIPKUMAR  
PRAKASHRAO  
DESHMANE  
Date:  
2021.08.06  
16:26:20 +0530

**(SARANG V. KOTWAL, J.)**

Deshmane (PS)