

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2736 OF 2021

Sayyad Tabrez Asif Ali	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. M. N. Sandhyanshiv, for the Applicant.

Ms. P. N. Dabholkar, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

RESERVED ON : 22nd November, 2021.
PRONOUNCED ON : 29th November, 2021.

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 538 of 2020 registered with Chawni Police Station, Malegaon, District-Nashik for the offences punishable under Sections 397 and 34 of the Indian Penal Code and sections 4 and 25 of the Arms Act.

2 It is the case of prosecution that on 08/12/2020, the informant after completing his daily work along with his friend, namely, Nilesh Khaire had been to Nanavati Patrol Pump to fill petrol at around 8.00

p.m. On returning home they stopped near Girna bridge to attend the call of nature. It is alleged that two unknown persons stopped them. One of them brandished a knife and placed the same near the informant's neck and took away Rs.100/- cash and mobile phone. It is further alleged that the accused assaulted Nilesh and also took away his mobile phone. Thereafter, they fled away. In the test identification parade co-accused, namely, Pathan Rahim Khan Anwar Khan only came to be identified by the informant. The recovery of knife at his instance was also effected.

3 Mr.Sandhyanshiv, learned Counsel for the applicant, submits that out of the two accused one accused, namely, Pathan Rahim Khan Anwar Khan has already been released on bail by this Court (Coram:Revati Mohite Dere, J.) on Monday, 11th October, 2021. The role of present applicant and that of another accused, who is already on bail, is similar and therefore, the applicant also deserves to be enlarged on bail.

4 Ms. Dabholkar, learned APP, on the other hand, opposed the submissions by submitting that there are antecedents which are also taken note of by the learned trial Court. Since the applicant is not on the same footing, like other accused who is released on bail, there is no

question of parity.

5 Perused the investigation papers and also medical certificate of informant and his friend-Nilesh Khaire. It may be noted from the medical certificates that the injuries sustained by them were simple in nature.

6 It is not in dispute that the investigation is completed. Recovery of knife has also been done at the instance of other accused, who is already on bail. The role of present applicant *qua* the other accused who is on bail is similar. Therefore, there is no reason for me to view the application of applicant differently. Accordingly, application is allowed in following terms and conditions. Hence, the following order.

ORDER

(i) Applicant- Sayyad Tabrez Asif Ali shall be released on bail in C.R. No. 538 of 2020 registered with Chawni Police Station, Malegaon, District-Nashik on his executing P .R. bond in the sum of Rs.15,000/- with one or two sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Bail before the trial Court.

(v) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)