

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

CRIMINAL BAIL APPLICATION (ST) NO.1406 OF 2020

Lahur @ Kamreazam Mohammed
Rafique Khan

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.S.R. Samel i/b. Rajeev Sawant & Associates, Advocate for Applicant.
- Mr.Amit A. Palkar, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 07th JANUARY 2021**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.82/2019 registered with Kandivali Police Station, Mumbai, under sections 341, 307, 394, 109, r/w 34 of the Indian Penal Code and under sections 4 and 25 of the Maharashtra Police Act. The Applicant was arrested on 04/10/2020 and since then he is in custody. Investigation is over and the charge-sheet is filed.

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2. The FIR is lodged by the injured Deepak Gupta. He has stated that on 02/02/2019 he was travelling on his two wheeler at about 06.30 p.m. near Nurani Masjid, Kandivali with his friend Ramkishan Chouhan. At that time, one Tipu Khan stopped their vehicle. Shortly thereafter the present Applicant came there brandishing sword in his hand. He was accompanied by his brother Mohsin. He was carrying an iron rod. The Applicant gave blow of sword on the head of Ramskishan Chauhan. Mohsin gave blow with iron rod on his left leg. Mohsin picked up a cement block and gave a blow on the right side of the informant's head. Mohsin removed a knife and tried to assault the informant on his hand. It is alleged that Mohsin forcibly removed one gold ring from his hand. On this basis, the FIR is lodged.

3. Heard Mr.S.R. Samel, learned counsel for the Applicant and Mr.Amit A. Palkar, learned APP for the State.

4. Learned counsel for the Applicant submitted that the medical certificate shows that all the injuries were simple and no offence u/s 307 or even u/s 326 of IPC is made out against the present Applicant. He submitted that the Applicant is falsely implicated because of the rivalry between the two groups.

5. Learned APP on the other hand opposed this application. He submitted that the Applicant has three antecedents of similar nature. He submitted that there are eyewitnesses to this incident who have supported the informant's case. The sword is recovered at the instance of the present Applicant and therefore the Applicant does not deserve to be released on bail.

6. **Reasons** -:

The other injured Ramkishan Chauhan has suffered three injuries on head. All of them are described as simple injuries. They are of the dimensions 2 x 1 x 0.5 cms, 2 x 1 x 0.5 cms and 3 x 1 x 0.5 cms. Thus, it can be seen that all the injuries

are minor in nature. It is difficult to observe that the head injury suffered by Ramkishan could be caused by the sword attributed to the present Applicant.

7. There are eyewitnesses to this incident viz. Ranjit Singh, Dharmesh Hasmukhbhai Khorasiya, Shatrughna Brijbihari Chauhan etc. They have narrated the incident as narrated in the FIR. The injured Ramkishan has also narrated the incident in the same manner as is described in the FIR.

8. Considering the nature of the allegations and injuries suffered by the two injured, it is difficult to observe that offence u/s 307 of IPC is made out against the Applicant. Of course this fact will have to be decided during the trial. Trial court shall not be influenced by any of the observations made in this order.

9. In this background, I am inclined to grant bail to the Applicant. However, considering his antecedents, certain conditions will have to be imposed on him. It is important to note that the Applicant was arrested from Uttar Pradesh and

was not available for more than 1 ½ years. His presence will have to be secured through local sureties.

10. Hence, the following order :

ORDER

- (i) In connection with C.R.No.82/2019 registered with Kandivali Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two local sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station every Monday between 11.00 to 02.00 p.m. for a period of one year from today.
- (iii) The Applicant shall attend all the dates during the trial.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)