

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

CRIMINAL BAIL APPLICATION NO. 1468 OF 2020

Parvez Alam Khan

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Ms. Dhanashree M. Lad a/w. Abdul Aziz Khan for Applicant.

Ms. Rutuja Ambekar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 05th JANUARY, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 1006 of 2019 registered at Sakinaka police station, on 05/12/2019 under section 307 of the Indian Penal Code (for short 'IPC'). The applicant is arrested on 16/12/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. The First Information Report (for short 'F.I.R.') is lodged by Samad Shaikh brother of the victim Altaf Shaikh. The

Digitally signed
by
Pradeepkumar
P. Deshmane
Date:
2021.01.06
15:02:26
+0530

Gokhale

prosecution story unfolds through the statement of injured Altaf. He has stated in his statement that, on 04/12/2019 at about 7.30p.m. he saw the applicant standing near one shop. This witness demanded Rs.3000/- which he had given to the applicant in the past. The applicant got angry. He refused to pay any amount. He removed a knife and started giving blows to Altaf. He threatened others who tried to rescue Altaf. After giving few blows the applicant left and injured was taken to the hospital by his friends.

3. Heard Ms. Dhanashree Lad, learned counsel for the applicant and Ms. Rutuja Ambekar, learned APP for the State.

4. The learned counsel for the applicant submitted that the applicant is a young boy of 19 years of age. There are no criminal antecedents. There are no life threatening injuries caused by him, therefore, leniency should be shown to him. She submitted that, there is a contradiction between the version of the injured and his brother who is the first informant.

5. The learned APP submitted that there were two grievous injuries and the victim was also 22 years of age and therefore, leniency need not be shown to the applicant.

REASONS:

6. With the assistance of learned counsel for the applicant I have gone through the entire charge-sheet. At this stage, there is no doubt about occurrence of the incident and involvement of the present applicant in the offence. Besides Altaf there are other eye witnesses namely Javed, Soyeb, Sahil, Babubhai and Sameer who have narrated the incident corroborating the version of the injured Altaf. The weapon in this offence is also recovered at the instance of applicant. The only question is whether offence can be that of attempt to commit murder as defined under section 307 of IPC. or lesser offence. Of course, this fact will have to be decided during the trial. However, for consideration of bail certain factors need to be taken into account. The medical certificate of the injured Altaf shows that he had suffered six injuries because of this assault. Out of them, four injuries were described as simple injuries and they

were not on vital parts. But out of two grievous injuries, one was on left forearm. That was also not life threatening injury. There was only one injury on the chest which is described as grievous injury. The dimensions of the injury were 1cm x 1cm reaching upto rib cage. Thus, the applicant had ample opportunity to cause more damage and give more blows on the vital parts with the deadly weapon that he was carrying. Others were scared and not able to rescue the victim and yet the applicant did not cause more damage than what he actually did. In this view of the matter, it is rather difficult, at this stage, to observe that the offence U/s.307 of IPC is made out. There was no premeditation either. The incident had occurred when the victim had seen the applicant standing near a shop and when the victim demanded the money. In addition to this ground, the applicant is 19 years old boy and, therefore, this factor also needs to be taken into consideration. Therefore, taking over all view of the matter, the applicant has made out a case for his release on bail.

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 1006 of 2019 registered at Sakinaka police station, 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 sureties in the like amount.
- (ii) The applicant shall attend the concerned police station once in fortnight till conclusion of the trial.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)