

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

CRIMINAL BAIL APPLICATION NO. 2085 OF 2019

Shrukh Emam Shaikh

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Nitesh Mohite, Advocate for the Applicant.

Mr. P. H. Gaikwad, APP for State-Respondent.

CORAM : REVATI MOHITE DERE, J.

DATE : FRIDAY, 22ND JANUARY 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with CR No. I-139-2017 registered with the Hill Line Police Station, Thane for the alleged offences punishable under Sections 307, 323, 504 and 34 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that the incident appears to have taken place at the spur of the moment. He further submits that the applicant is in custody since 31st May 2017 and that till date charge has not

been framed. He further submits that the applicant has no antecedents. Learned Counsel for the applicant has also tendered an affidavit of the applicant affirmed before the Jailor, Kalyan Central Prison. The same is taken on record.

4. Learned APP opposes the application. He, however, does not dispute the fact, that the applicant has no antecedents.

5. Perused the papers. According to the complainant-Amir Pathan (injured), the applicant is his neighbour. He has stated that the incident took place on 30th May 2017 at 7.30 p.m., when the applicant went to his father's shop to purchase onions. The complainant has stated that when his mother demanded arrears of past credit from the applicant, the applicant refused that there was any credit or any money due from him, pursuant to which, there was a verbal altercation between them. It is further alleged that when the complainant went to the said shop on seeing the quarrel and questioned the applicant why he was fighting with his mother, co-accused Yasin Shaikh intervened and started assaulting the complainant by fist blows. It is alleged that the applicant went nearby and brought a sharp weapon like knife. It is further alleged that co-accused Yasin Shaikh held the complainant and that the applicant assaulted the applicant on his back

and thigh with the said weapon. The injury certificate shows that the applicant has sustained stab injuries, on his back and thigh and the said injuries are stated to be grievous injuries.

6. It appears that the applicant is in custody since 31st May 2017 and till date charge has not been framed in the said case. Co-accused Yasin Shaikh has been released on bail. The incident appears to have taken place on spur of the moment. The applicant has also filed an affidavit stating therein, that he will stay out of the jurisdiction of the Hill Line Police Station; that he will not contact or intimidate or cause any harm to any of the prosecution witnesses; that he will attend the trial court on every date; and that if there is breach of any of the conditions, his bail may be cancelled. The affidavit of the applicant is accepted as an undertaking to this Court.

7. Having regard to the peculiar facts and the fact that the applicant is in custody for more than 3 ½ years and that till date charge has not been framed and also the fact that the applicant has no antecedents and having regard to the applicant's affidavit, the application is allowed and the applicant is enlarged on bail on the following terms and conditions;

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- (Rs. Twenty Thousands Only) with one or two local solvent sureties in the like amount;
- (ii) The applicant shall report to the investigating officer of the concerned police station on the first Sunday of every month between 10.00 a.m. and 12.00 p.m. till the conclusion of trial;
- (iii) The applicant shall not enter the jurisdiction of Hill Line Police Station, pending his trial, except for the purpose of attending the police station, as per Clause (ii);
- (iv) The applicant shall inform his new place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.
- v) The applicant to co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vi) The applicant shall file an undertaking with regard to Clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.