

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

BAIL APPLICATION NO.3187 OF 2019

Akash Shivram Nayak

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondent

.....

Mr.Milan Desai i/b. Ms.Mamta Tripathi, Advocate for the Applicant.

Mr.Y.Y. Dabake, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 17, 2021.

P.C. :

The applicant is arrested on 23rd June, 2019, in connection with C.R.No.191 of 2019, registered with Versova Police Station, Mumbai, for the offences punishable under Sections 307 and 394 read with 34 of Indian Penal Code (“IPC”, for short).

2 First Information Report (“FIR”, for short) was lodged on 23rd June, 2019. It is alleged that on 22nd June, 2019, the complainant was driving his Auto-rickshaw. At about 00:15 hours, two passengers were sitting in his rickshaw. They told him to

Digitally
signed by
RAJESHRI
PRAKASH
AHER
Date:
2021.08.18
17:10:20
+0530

halt the rickshaw. One of them took out knife and the other person caught the complainant and made him alight from the Auto-rickshaw. The complainant was asked to hand over the money and cell phone. The complainant tried to push the accused. He was assaulted by the person holding knife. The knife blow was given on the stomach as well as hands of the complainant. People had gathered at the scene of the offence. They had threatened by the applicant. One of them took away the mobile phone of the complainant.

3 The investigation proceeded. The applicant was arrested. On completing investigation, charge-sheet is filed.

4 Learned counsel for the applicant took me through the charge-sheet, which has been annexed to the application. It is submitted that there is no test identification parade. The applicant is not the person who assaulted the complainant with knife. There is no recovery from the applicant.

5 The complainant had sustained one grievous and three simple injuries. The applicant is in custody for a period of more than about two years.

6 Learned APP submitted that the applicant is involved in this case. He has participated in the offence. There are eye witnesses to the incident. The witnesses has stated that they had seen the applicant as a person who had accompanied the other accused and participated in the crime. Three other cases are registered against the applicant.

7 It is pertinent to note that the applicant was arrested on suspicion. Statements of witnesses were recorded. Identification parade was not conducted. Although there are eye witnesses to the incident, there was no test identification parade to identify the applicant. The applicant is in custody for a period of two years.

:: ORDER ::

- (i) Bail Application No.3187 of 2019, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.191 of 2019, registered with Versova Police Station, Mumbai, on executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall report concerned police station once in three month on first Saturday of the month between 11:00 a.m. to 01:00 p.m., and, thereafter, as and when called for;
- (iv) Applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/-, for a period of ten weeks, in lieu of surety;
- (v) Applicant shall not tamper with the prosecution evidence;
- (vi) Bail Application No.3187 of 2019, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)