

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

CRIMINAL BAIL APPLICATION NO. 3409 OF 2019

Israil Ismail Khan ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Anjali Patil, for the Applicant.

Mr. S. S. Pednekar, APP for Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 17th MARCH, 2021

PC :

1. The applicant is seeking bail in C.R.No.231/2017 registered with Ghatkopar Police Station, Mumbai for the offence punishable under Sections 143, 144, 148, 149, 307, 326, 323, 504, 506(2) of Indian Penal Code. The applicant was arrested on 15th April 2017.

The applicant is in custody for a period about 3 years and 11 months.

2. The First Information Report [for short, “FIR”] was lodged on 15th April 2017 and on the same day, the applicant was arrested. The case of the prosecution is that the applicant is creating terror in the area. On the date of incident, the applicant and his associates had assaulted the complainant and others. The co-accused Rabbani

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Chaudhary had assaulted the complainant by fist blows. Other co-accused Adil Shaikh had assaulted Sahil and co-accused Papagulam Chaudhary had assaulted Akash. The applicant is alleged to have assaulted the complainant by giving blows on the head by sickle. He has also assaulted the other witness Akash.

3. Considering the fact that there are antecedents against the applicant. The previous application was rejected however, in view of fact that the applicant was in custody since 2017 trial Court was directed to make endeavor to conclude the trial within the period of nine months. However, the trial could not be concluded within stipulated time. Hence, this applicant was preferred on 4th February 2021. It was contended by the prosecution that the witnesses are summoned by the trial Court and the trial would be conducted within one month. Hence, this application was adjourned till 4th March 2021. However, within a period of one month, the trial was not concluded. No further witness has been examined. On 4th March 2021, again time was granted to the prosecution to proceed with the trial and the application was adjourned. Learned APP, on instructions, submits that no witness has been examined during this period.

4. I have perused the injury certificate of the injured to whom the

applicant had allegedly assaulted. The injured sustained CLW by blunt object which is simple in nature. All the other accused are on bail. The applicant is in custody for substantial period of time. Hence, bail can be granted to the applicant.

5. Hence, the following order.

ORDER

- (i) Bail Application No.3409 of 2019, is allowed.
- (ii) The applicant is directed be released on bail in C.R.No.231/2017 registered with Ghatkopar Police Station, Mumbai, on executing PR. bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the concerned Police Station once in three month on first Saturday of every month between 11.00 a.m. to 01.00 p.m.;
- (iv) The applicant shall attend the trial Court regularly on the date of the hearing of case unless exempted by the Court.
- (iv) The applicant shall not approach the complainant/victim or any other witnesses. He shall not tamper with evidence;
- (v) The applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety;

- (vi) Bail Application No. 3409 of 2019 stand disposed of accordingly.

(PRAKASH D. NAIK, J.)