

rajshree

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.265 OF 2022**

Aatish Rupesh Kharwa @ Atish Rupesh Kharwa] .. Applicant

vs.

State of Maharashtra] .. Respondent

Mr.Khwaja Shaikh a/w Abhay Dolas, for the Applicant.

Mr.S.V. Gavand, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 15th NOVEMBER, 2022.

P.C.

1] The Applicant seeks his release on bail in connection with CR No. 210/2021 registered with Powai Police Station for the offence punishable under Section 397, 452 read 34 of the Indian Penal Code and under Section 3, 25 of the Arms Act read Section 37(1)(A) and 135 of the Maharashtra Police Act.

2] Heard the learned counsel for the Applicant and the learned APP for the State.

3] When the charge-sheet is perused, it accuses the arrested accused mentioned therein of entering a shop belonging to the complainant with intention to rob him. It is alleged that three arrested accused persons alongwith a juvenile, entered into the saree shop

belonging to the complainant through the partially opened shutter and by brandishing a Katta and knife, they robbed him of cash worth Rs.3,000/- as well as mobile phone worth Rs.11,500/- alongwith a silver coin worth Rs.2,500/-.

The charge-sheet also accuse them of causing injury to the complainant. The injury certificate is compiled in the charge-sheet in which the injury is described as 'abrasion'.

As far as complainant is concerned, he sustained one stab wound on the anterior abdominal wall, which is described as grievous injury. He also sustained incised wound which is described as a simple injury. However, this injury is attributed to accused No.2.

4] It is informed that the stolen articles are recovered which include the mobile phone being recovered from Accused No.3, whereas, silver coin is recovered from the present Applicant.

The learned counsel for the applicant submits that, Accused No.3, from whom the mobile phone has been recovered, is already released on bail.

5] In the wake of above, on the investigation being complete and material against the applicant being crystalized in the form of charge-sheet and since stolen property has been recovered during the course of investigation, further incarceration of the Applicant is not warranted. It is not the case of the learned APP that the Applicant is flight risk and will not make himself available for trial.

6] The observations made above are prima facie in nature and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which he is

charged, shall not in any manner be influenced by the above order.

Hence, the following order :

ORDER

- (a) Application is allowed.
- (b) Applicant – Aatish Rupesh Kharwa @ Atish Rupesh Kharwa shall be released on bail in connection with C.R.No.210 of 2021 registered with Powai Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall report to the concerned Police Station on first Saturday of every trimester between 03.00 p.m. to 05.00 p.m.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (e) The Applicant shall regularly attend trial, on every date, unless exempted.
- (f) Upon release, the Applicant shall furnish his contact number and permanent residential address to the Investigating Officer and shall keep him updated in case of change in the same.

[BHARATI DANGRE, J]