

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.499 OF 2022

Wasim Samad Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Vinod Kashid for the Applicant.

Mr.S.H.Yadav, A.P.P. for the State/Respondent.

PSI Y.B.Kadam attached to Murbad Police Station, Thane (E),
present.

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CORAM: BHARATI DANGRE, J.
DATED : 03rd AUGUST, 2022

P.C:-

1. The applicant is charge-sheeted for the offences punishable under Sections 307, 324, 326, 504, 506 read with Section 34 of I.P.C.. He came to be arrested on 15/08/2021.
2. On completion of investigation, the material incriminating the accused persons, is compiled in the charge-sheet.

The statement of the complainant, Aatish Mhaskar would reveal the incident, where he state that the accused persons arrived at the spot in order to revenge the previous quarrel and it is alleged that Sunny Deshmukh, accused No.1 was armed with a pointed iron weapon and he assaulted his brother Kedar on his chest and back, causing serious injuries. It is alleged while he was being assaulted, the present applicant and co-accused Nitin Kumbhar held him as well as his brother, so that the complainant cannot come to the rescue of his brother. When somehow he managed to relieve himself from the clutches of the co-accused and went to the aid of his brother, it is alleged that Sunny assaulted him with same weapon on left portion of his waist. After the said incident, the assailants fled from the spot.

The statement of the injured Kedar Mhaskar is also compiled in the charge-sheet where he attributes a similar role to the applicant.

3. The injury certificates of Aatish and Kedar are on record. As far as Aatish is concerned, it refers to stab injury, which is clearly attributed to Sunny. Kedar has also sustained stab wounds, which are six in number, and there is a reference to the penetrating stab injury over the segment VI & VIII of right

lobe of liver. It is reported by the Medical Officer that the injuries are possible with the weapon shown to him and are grievous and fatal in nature.

4. The role attributed to the applicant has clearly surfaced in the charge-sheet and it is seen that he is not the assailant, but he is alleged to have caught hold the complainant alongwith co-accused Nitin so that he does not come to the rescue of Kedar. He is charged under Section 307 with the aid of Section 34. Whether the common intention is shared by the applicant, will be the subject matter of trial and the applicant will face the consequences of his act, if it is established by the prosecution that all the accused persons shared the common intention.

5. It is informed that the co-accused Nitin, who has been attributed a identical role, as the present applicant of holding the complainant and the injured, is already released on bail. The applicant is incarcerated since last one year and since on completion of investigation, material against him is already compiled in the charge-sheet, he deserves his release on bail, particularly considering that he is a young boy of 20 years and has no antecedents to his credit.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Wasim Samad Shaikh shall be released on bail in connection with C.R.No.I-305 of 2021 registered at Murbad Police Station, Thane Rural, 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 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. The applicant shall not tamper with evidence.
- (d) The applicant shall attend the trial on regular basis, unless and until exempted by the trial Court.

(SMT. BHARATI DANGRE, J.)