

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

CRIMINAL BAIL APPLICATION NO. 594 OF 2022

Arman Khan @ Rahim Fazlu Rehman Khan Applicant
Versus
The State of Maharashtra Respondent

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Mr. Nitin S. Satpute a/w. Surya Srivastava a/w. Gauri Doiphode for Applicant.

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

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**CORAM : SARANG V. KOTWAL, J.
DATE : 24th FEBRUARY 2022**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.288 of 2016 registered at Shahunagar police station, Mumbai, on 26/07/2016, under sections 452, 397, 326, 324, 323, 43, 147 and 149 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Nitin Satpute, learned counsel for the applicant and Shri. Gaikwad, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') in this case was lodged by one Anil Katke on 26/07/2016. He has stated

that, on 25/07/2016, at about 9.30p.m. one person Faruqui who was known to the informant called him outside the shop. Faruqui was accompanied by 2 to 3 persons. Within 5 to 10 minutes after discussion, when the informant was in the shop, 15 to 20 persons entered his shop and started abusing him. All of them started assaulting him. The informant was assaulted by those persons with iron spade. In the incident the informant lost his gold chain worth Rs.60000/-. He has suffered fracture of his nose and bone near his eyebrows. On this basis the F.I.R. was lodged.

4. At the first instance, the applicant was granted bail by the Additional Sessions Judge vide his order dated 25/08/2016 passed in Bail Application No. 1698 of 2016. There were clear observations that the applicant was not named in the F.I.R. Specific role was not attributed to him. After his arrest the applicant was thoroughly interrogated. Nothing was recovered at his instance. It did not transpire that he assaulted the informant by any means. The applicant was permanent resident of Mumbai and he had no past antecedents. On this basis the bail was granted to him. The condition was to furnish P.R. bond in the sum of Rs.15000/- with

like amount of surety. By another condition the applicant was directed to attend the concerned police station on every Monday between 3.00p.m. to 5.00p.m. till filing of the charge-sheet and thereafter whenever required by the Investigating officer.

5. After this order, the charge-sheet was filed on 03/05/2021. According to learned counsel for the applicant, thereafter the applicant was arrested on 17/12/2021 in execution of NBW issued against him by the learned Magistrate. The applicant preferred an application before the learned Magistrate for his release on bail. However, it was rejected vide order dated 17/12/2021 on the ground that the offence was serious and the applicant had not attended the court for last five years. The applicant thereafter made another application vide Bail application No. 3256 of 2021 before the Court of Sessions, Mumbai. It was also rejected vide order dated 11/01/2022. The reason given by the learned Sessions Judge was that the applicant had not attended the proceeding and, therefore, committal process was also delayed. Police took lot of efforts in arresting him. The case was pending since the year 2016 and it could not be committed

only because of the applicant. Learned Judge was of the opinion that if his act is ignored then that will put premium on the illegal acts and conduct of the accused which was not proper.

6. Learned counsel for the applicant submitted that the applicant was never informed about the date in the Magistrate's court after filing of the charge-sheet. He has not received a single notice in that behalf. He relied on the observations made in the first order and submitted that, in the interest of justice the applicant be released on bail. He submitted that the applicant's presence can be secured by imposing suitable conditions. Learned counsel, however, could not justify as to why he had not attended the police station as directed by the order while releasing him on bail.

7. Learned APP opposed this application. He submitted that the applicant has not complied with all the conditions.

8. While it is true that the applicant had not attended the police station, however, in the interest of justice, I am inclined to give him one more chance, particularly, in view of observations made in the order granting him bail at the first instance. The

evidence against him is almost non existent as is indicated from that order. In this view of the matter, some leniency should be shown to him. It is made clear that no fault can be found with the learned Magistrate or with the learned Sessions Judge in refusing him bail after his arrest. At the same time, I am inclined to impose some more conditions on the applicant, so that, his presence is secured. Learned counsel for the applicant undertakes that the applicant shall attend all the dates during trial and shall not cause any delay in smooth conduct of the trial.

9. Hence, the following order :

ORDER

- (i) In connection with C.R.No.288 of 2016 registered at Shahunagar police station, Mumbai, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.45,000/- (Rupees Forty Five Thousand Only) with three or more sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station once in a month till conclusion of the trial.
- (iii) The applicant shall attend all the dates in the court and shall not cause any delay

in the trial.

(iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)