

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.740 OF 2022**

Mohammad Ali Bashir Shaikh .. Applicant
Versus
State of Maharashtra .. Respondent

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Ms.Manali Sohoni with Suvarna Avhad for the Applicant.
Mrs.Anamika Malhotra, A.P.P. for the State/Respondent.
PSI Shri S.D. Taware from Pant Nagsar police station.

**CORAM: BHARATI DANGRE, J.
DATED : 18th AUGUST 2022**

P.C:-

1. The applicant is facing the charge under section 307, 324, 427, 452, 290, 504, 506 II of IPC in a CR registered with Pant Nagar police station in the year 2021. He came to be arrested on 6/04/2021 and since then, he remain incarcerated, in the wake of the accusations faced by him, his application for his release on bail is rejected by Sessions Court on 2/02/2022.
2. The subject CR came to be registered on a complaint filed by one Rasika Ambreedkar, who reside in the neighbourhood of the applicant, and there was a dispute between them as regards

construction of a platform, as it is alleged that the applicant was insisting that the complainant shall demolish the said platform as it was in his property. This discord resulted in hurling abuses at times.

The incident which resulted in registration of the subject crime took place on 6/04/2021 at around 5:30 a.m, when the complainant heard someone screaming, and hence her father opened the door to see the applicant standing with a stone in his hand. He started hurling abuses at her father, who questioned him on his objectionable act. It is alleged that the applicant hit the main door with a stone and barged an entry into the house. The complainant picked up a bamboo in her hand in defence to stop his entry, but it is allege that the applicant picked up a piece of pavement/tile from the road and threw it at the complainant which hit her and even her father sustained an injury. It is alleged that the brick was thrown by the applicant at her and towards her father with an intention to kill them.

During the course of investigation, the injury certificates were obtained and compiled in the charge-sheet.

As far as the father of the complainant is concerned, he has sustained a following injury:

“CLW 3x1x0.5 cm on left ear, blunt trauma to thigh and hand”

The injury has been described as simple injury.

3. As far as the complainant is concerned, the injury certificate issued by Municipal General Hospital, certify that she sustained an abrasion on right wrist which is again described as simple injury.

4. In the wake of the aforesaid certificates, since *prima facie* the offence under section 307 IPC cannot be said to have been made out, the applicant deserve his release on bail. The application which was turned down by the Sessions Court is that the applicant is residing at the same locality and there is every possibility of tampering with the evidence. This aspect can be taken care of, by imposing a specific condition on the applicant that if he indulges with the complainant and her family or any of the witnesses and the liberty conferred upon him shall be revoked, and he shall be committed to judicial custody, considering as the breach of order subject to which he is released on bail. Hence, the following order :-

: ORDER :

- (a) Application is allowed.
- (b) Applicant – Mohammad Ali Bashir Shaikh shall be released on bail in connection with C.R.No.160/2021 registered at Pant Nagar Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or more 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 should not tamper with evidence.
- (d) The Applicant shall mark his attendance on first Monday of trimester between 2.00 to 4.00 p.m. and shall attend the trial regularly.

(SMT. BHARATI DANGRE, J.)