

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

BAIL APPLICATION NO. 1037 OF 2022

Dilshad Abdul Rashid Shaikh

.... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. S.G. Rajput for the Applicant.

Mr. S.H. Yadav, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th MARCH, 2022.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who has been arrested in C.R.No.407/2021 registered with Colaba Police Station, Mumbai for offences punishable under sections 307, 323, 504 and 506(II) r/w. 34 of the Indian Penal Code.

2. Heard Mr. S.G. Rajput, learned counsel for the Applicant. He submits that there is no prima facie material on record to show that the Applicant had assaulted the injured with a sharp weapon. He further contends that the material on record also does not indicate that the Applicant had knowledge or intention to cause the death of the injured.

He submits that the Applicant is a young boy of 24 years of age and that he has to answer his M.Com examination on 28th of this month. He states that though the charge sheet is filed and the case is not yet committed and as such, the trial is not likely to conclude in near future.

3. Mr. S.H. Yadav, learned APP states that the Applicant has inflicted several injuries on the injured which itself would indicate that the Applicant has an intention of causing death of the injured witness. He submits that considering the facts and circumstances of the case, the Applicant does not deserve to grant bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The aforesaid crime was registered pursuant to the first information report lodged by one Aniket Bhagat. A perusal of the first information report reveals that on 23/11/2021, during night hours, he had seen Shivam Kesarvani lying in an injured condition near Iyengar Bakery. Aniket Bhagat had informed him that the Applicant and the other co-accused had assaulted him with gupti, knife, kicks and blows. He therefore lodged the first information report pursuant to which the

aforesaid crime came to be registered.

6. The statement of the injured witness reveals that on 23/11/2021 there was some altercation between him and one Shahbaz Sayyed and Bunny alias Sunil Rathod. Later on, at about 10:00 p.m., while he was proceeding towards Salgaonkar Junction, said Bunny alias Sunil Rathod started abusing him. In the meantime, the Applicant and one another person came on the scooter and abused him and before he could respond, the Applicant assaulted him with a weapon which looked like a steel rod. He has also stated that Darvesh has also inflicted injury by a screw driver on his stomach and back. The medical report reveals that injured had sustained CLW on *right flank, inter scapular region, posterior 2nd space, right forearm and parieto occiput*. The said injuries are stated to be grievous injuries.

7. The statement of the injured reveals that he was assaulted by the Applicant and by co-accused Darvesh. His statement indicates that the injuries on his abdomen and back were inflicted by Darvesh and not by the present Applicant. The injuries sustained by the injured are no doubt grievous in nature but whether the Applicant had knowledge or intention to cause his death, is the matter which will have to be

decided in the course of the trial. It is seen that the Applicant is a young boy of 24 years of age. He is studying in M.Com and has to answer exams on 28th of this month. Furthermore, considering the fact that the case is not yet committed and also considering the large pendency of the cases, it is evident that the trial is not likely to commence in immediate future. The Applicant has no criminal antecedents.

8. In view of the above facts and circumstances, in my considered view, the Applicant is entitled for bail. Hence, the Bail Application is allowed on following terms and conditions :-

- (i) The Applicant who is arrested in C.R.No.407/2021 registered with Colaba Police Station, Mumbai is ordered to be released on cash bail in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) for a period of four weeks.
- (ii) The Applicant shall, within the said period of four weeks, furnish P.R. Bonds in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one or two sureties in the like amount ;
- (iii) The Applicant shall report to Colaba Police Station, Mumbai

once in a month on every 1st Saturday between 11.00 a.m. to 01.00 p.m. until further orders;

- (iv) The Applicant shall not interfere with the witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case, in any manner.
- (v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

9. Bail Application stands disposed of in above terms.

**PREETI
H JAYANI**

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PREETI H JAYANI
Date: 2022.03.25
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(SMT. ANUJA PRABHUDESSAI, J.)