

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

**CRIMINAL BAIL APPLICATION NO.1320 OF 2021**

Anil Ahmed Sattar Ibji .... Applicant

versus

State of Maharashtra .... Respondent

.....

- Mr.Arun Rajput a/w Bilal A. Motorwala i/b. Shabnam Shaikh, Advocate for Applicant.
- Mr.P. H. Gaikwad, APP for the State/Respondent.
- Mr.Shadab B. Kopekar, Advocate for complainant.

**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 08<sup>th</sup> FEBRUARY, 2022**  
**(through video conferencing)**

**P.C. :**

1. The Applicant is seeking his release on bail in connection with C.R.No.948/20, dated 10/12/2020, registered with Andheri Police Station, Mumbai, under sections 436 r/w 34 of the Indian Penal Code.

2. Heard Mr.Arun Rajput, learned counsel for the Applicant, Mr.Shadab B. Kopekar, learned counsel for the complainant and Mr.P. H. Gaikwad, learned APP for the State.

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3. The FIR is lodged by one Sarfaraz Mehboob Khan. He has stated that he knows the present Applicant. The informant also knew Malik, Imran, Sattar and Farukh. The Applicant had lodged C.R.No.2 of 2015 at Andheri Police Station, against these four persons u/s 307 of IPC. In that offence the informant was an eyewitness. The informant was supporting those persons and was not supporting the informant herein and therefore there was enmity between them. On 09/12/2020, the Applicant had threatened him. On 10/12/2020 at about 03.30 a.m. in the early hours, the informant had gone to the toilet in front of his room. He smelled kerosene. He came out. He saw that the Applicant was sprinkling kerosene on the curtain on the ground floor door. He set it on fire. The informant raised shouts. The Applicant ran away. That time the Applicant was accompanied by his brother Taj and friend Firoz. Because of the informant's shouts, others gathered there. They tried to extinguish the fire. His wife and son were taken out. There were some minor injuries to the informant and his wife due to fire. After that, this FIR is lodged.

4. Learned counsel for the Applicant submitted that there was admittedly enmity between the informant and the Applicant. Therefore the informant has taken advantage of this fire and filed this false FIR. Learned counsel for the Applicant insisted on submitting that the informant himself set his house on fire and named the Applicant. He submitted that the other two co-accused are already granted bail. According to him the Applicant is in custody since 10/12/2020. The investigation is over. Therefore the Applicant deserves to be released on bail.

5. Learned APP as well as learned counsel for the Applicant submitted that the informant's version is supported by the informant's aunt Amina. There is another eyewitness Ruksar Husain. However she has not named the Applicant. She had seen two persons running away from the spot. No identification parade is held to enable her to identify the accused.

6. I have considered these submissions. The witness Ruksar Husain, Hanif Khan and Akhtar Khan had immediately

gone to the spot and had helped in pouring water, but none of these witnesses have referred to the Applicant's name. They have not mentioned that the informant was naming the Applicant as one of the culprits. Though the incident of fire cannot be denied, Sarfaraz has also suffered burn injuries. The question is still debatable as to whether the Applicant was responsible for the offence. The only evidence is that of the informant and his Aunt. As mentioned earlier there was enmity and therefore there is possibility of false implication. Therefore it would not be proper to make conclusive observations in that regard at this stage. Be that as it may, the Applicant is in custody since 10/12/2020. The incident had not escalated to a higher degree to cause further damage, though potentially it was a dangerous incident. The investigation is over. Other two co-accused are already granted bail. Therefore further custody of the Applicant will not serve any purpose. After looking to the previous enmity, conditions can be imposed on the Applicant.

7. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No.948/20, dated 10/12/2020, registered with Andheri Police Station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station once a fortnight for a period of one year from today.
- (iii) The Applicant shall attend all the dates before the trial Court, unless exempted by the trial Court.
- (iv) Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**