

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1367 Of 2022.**

Darvez Mehmood Sayed .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Hrishikesh Mundargi i/b Swarali Joglekar for the applicant.
Smt. Anamika Malhotra, APP for the State.

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

P.C:-

1 The applicant seek his release on bail, on being charge-sheeted for the offences punishable under section 307, 506(2) 323, 504 read with 34 of IPC.

The applicant claim parity with co-accused Dilshad Shaikh who has been released on bail by the Scot on 25/03/2022 vide bail application no. 1037 of 2022.

Further it is submitted that co-accused Sunil Chandar Rathod alias Bunny is also released on bail.

2. The case of prosecution is that Mr. Anil Bhagat, the informant received the call from his friend Anil Chavan at 10:00 p.m on 23/11/2021. He was informed that Shivam Keswarwani was assaulted by few boys infront of Iyengar Bakery. When he reached the location, the victim was found in badly injured

condition having sustained injuries on his stomach, chest, back and hand. When inquired he disclosed that at about 10:00 pm while he was enroute his house, he received a call and stopped his scooter. At that time the accused persons came on Motorcycle and stoped near him. The accused no.2 approached him and started kicking, punching him on his back. It was alleged that all other accused persons assaulted him.

3 In the wake of the accusations the medical report of the injured is placed on record, which refer to a CLW on right flank, Inter capular region, posterior second place, right forearm and Parieto occiput region. All the said injuries are grievous in nature.

The injured has attributed a specific role to the present applicant and when the injury certificate placed on record is perused, it reflect 4 different injuries and two of the injures are attributed to the present applicant. One Shivam Kesarwani whose statement is included in the charge-sheet has also stated that while the accused persons were hurling abuses, the present applicant arrived at the spot and participated. At that time Dilshad took out some weapon like still rod and he assaulted Shivam. When he tried to avoid the said blow by taking it on his hand, he sustained an injury on his left hand. At that time Darvesh, the present applicant is alleged to have taken out a screw driver and stabbed him in stomach, and back and Dilshad assaulted him on his head which made him numb for some time.

Medical certificate of Shivam is placed on record, which record 5 injuries and corresponding to the version the injury on

posterior second space and right flank is attributed to the present applicant, which are described as fresh grievous injuries.

While releasing co-accused Dilshad, it was recorded as under:

“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.”

4 The applicant is a young boy aged 23 years and the same reasoning apply to him. The investigation is complete and the entire material being compiled in the charge-sheet, the applicant deserve his release, subject to the stipulation that he shall face the trial.

: ORDER :

- (a) Application is allowed.
- (b) Applicant Darvez Mehmood Sayed shall be released on bail in connection with C.R.No. 407 of 2021 registered at Colaba Police Station 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 should not tamper with evidence.
- (d) The Applicant shall make himself available as and when required by the Investigating Officer.
- (e) The applicant shall mark his attendance on first Monday of every month till framing of the charge.

(SMT. BHARATI DANGRE, J.)