

Firoz Faizulla Khan @ Firoz Bantai] ... Applicant

The State of Maharashtra] ... Respondent

Ms. Veera Shinde, A.P.P. for the State.

DATED : 12TH JULY, 2022.

1. Heard learned counsel for the applicant and learned A.P.P. for the State.

3. The applicant is charge-sheeted and the charge-sheet,

which is placed on record, reveals that on the particular date i.e. on 20/11/2019, the applicant was present in an A.C. room of the bar along with his 7 to 8 friends. Liquor was offered to them and some quarrel ensued between the group, as a result of which, the applicant is alleged to have become violent and started hurling abuses. When the bar owner asked him to leave the bar and go downstairs, it is alleged that the applicant took 2 to 3 persons downstairs and, on reaching there, the applicant and his friends assaulted the persons, who had a tiff with the applicant and it is alleged that he has assaulted by hands, fists and beer bottles. The charge-sheet accuses that the applicant and other accused persons, who were heavily drunk, forced Rakesh Kanojia to drink liquor and assaulted him on his head and other parts of the body. It is informed that, as a result of the said incident, he has suffered a disability.

4. As far as the present applicant is concerned, he has also assaulted one Ramesh Jaiswal and, therefore, he has been arraigned as an accused. On perusal of the statement of various persons, which are compiled in the charge-sheet, the incident has clearly surfaced on record and, since the injured were found lying in a unconscious state, the FIR came to be registered.

5. One Ramesh Jaiswal, who was present on the spot has narrated the entire incident and it can be seen that the applicant was aggressive and he even assaulted him with beer bottles. The

applicant is accused of offence punishable under Section 307 of the IPC. Learned A.P.P. has placed on record the injury certificate of Rakesh Kanojia, who was injured in the incident. The injury certificate referred to seven injuries and there is a reference to CLW 6 x 0.5 x 0.5 c.m. over the left high parietal region, CLW of 4 x 0.5 x 0.5 c.m. over left thigh left parietal region and one CLW over the occipital region. Apart from these, there is a reference of CLW of 3 x 0.5 x 0.5 c.m. over left forearm and over the right eyebrow. The said injured was referred to S.L. Raheja Hospital and has been diagnosed with traumatic brain injury with speech difficulty and amnesia.

6. As far as the present applicant is concerned, learned A.P.P., on the last date, has referred to his antecedents in 19 cases and it was informed that these 19 cases are registered against him from the eyar 2000 to 2019.

7. Learned A.P.P. has placed on record a document, where it is stated that in two of the cases, in which he is alleged to have been accused, in fact, do not arraign him as an accused and this being C.R. No.199 of 2008 and CR No.45 of 2008. Despite the acquittal in six cases, the cases in which the sections invoked are 323, 324, 506, 379 and 324 read with Section 34 of the IPC registered in the year 2003 and 2004, 2007, 2018 speak of his tendency to indulge in similar types of offences. This being an additional ground, apart from the grave nature of the accusations

and since the material is compiled in the charge-sheet, which *prima facie* refer to his indiction in the subject C.R., I am not inclined to grant the application.

8. Learned counsel Mr. Vagal has placed reliance upon an order passed in the case of co-accused. Perusal of the said order would reveal that the liberty is granted to the applicant, since the FIR does not name the applicant nor the charge-sheet indicts any material against him. As far as the two other accused persons are concerned, they are also released on bail, considering the fact that there is no material against them. The present applicant cannot claim any parity with them and considering the gravity of the situation and antecedents, the applicant does not deserve his release. The application is dismissed.

[SMT. BHARATI DANGRE, J.]