

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

**INTERIM APPLICATION NO.3351 OF 2022
IN
CRIMINAL APPEAL NO.983 OF 2022**

Abdul Jabbar Gafoor Shaikh Applicant

versus

State of Maharashtra Respondent

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- Mr. Rahul B. Vijaymane, Advocate for Applicant.
- Mr. P. H. Gaikwad, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 07th OCTOBER, 2022

P.C. :

1. This is an application for bail pending final hearing and disposal of Criminal Appeal No.983 of 2022. The Applicant was convicted by Additional Sessions Judge, Solapur, vide his Judgment and Order dated 13/09/2022 in Sessions Case No.337 of 2017 u/s 307, 504 and 506 of the Indian Penal Code. The major sentence imposed on him was 7 years besides imposition of fine.

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2. The incident had taken place on 01/09/2017. The prosecution case is that because of the quarrel and exchange of abuses, the Appellant assaulted Usman Shaikh and Shahanavaz Shaikh with knife on their heads. The investigation was carried out and the Appellant was convicted. There was one more accused i.e. accused No.2. He was acquitted from all the charges.
3. Heard Mr. Rahul B. Vijaymane, learned counsel for the Applicant and Mr. P. H. Gaikwad, learned APP for the State.
4. Learned counsel for the Applicant submitted that all the injuries are simple in nature. The P.W.1 who was an eyewitness has deposed that even the injured were abusing the Appellant and they were the aggressors. The injuries are simple in nature. The offence u/s 307 of IPC is not made out. The Applicant was on bail during the trial and he has not misused the same.

5. Learned APP on the other hand submitted that the assault was on the head, which is a vital part and therefore offence is made out. The injured narrated the incident. There is sufficient evidence against the Applicant.
6. I have considered these submissions. As rightly submitted by learned counsel for the Applicant, the injuries are simple in nature. The injured Usman had suffered two CLWs; out of one was on the nose and the other was on frontal area of the head. They were described as simple injuries, by P.W.9 Dr. Vikas Datta. Shahanavaz had suffered three injuries. One on nose and the other near eye and third was on the head. All these injuries are simple injuries. Therefore there is substance in the submission of learned counsel for the Applicant. Besides this, P.W.1 has admitted in the cross-examination that both the injured were abusing the Appellant.
7. Considering all these aspects, it is clear that some arguable points are raised. The Appeal is not likely to be decided

within a reasonably short period. Therefore the Applicant has made out a case for his release on bail during the pendency of Appeal.

8. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.983 of 2022, 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) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)