

Digitally
signed by
DIKSHA
DINESH
RANE
Date:
2023.01.09
17:23:35
+0530

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

BAIL APPLICATION NO.315/2021

UMER IBRAHIM SAYYED

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Amrish R. Salunke a/w. Adv. Siddhant B. Kusalkar, Adv.
Durgesh D. Sarfare for the applicant.

Mr. S. V. Gavand, APP for State.

Mr. Mahesh Gupta i/b. Mr. Pradyumna Waghmare for the
informant.

PSI Nitin C., Mulund Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 9, 2023.

P.C. :

1. Heard learned counsel for the applicant, learned APP
for the State and learned counsel for the informant.

2. This is an application for bail in respect of the First
Information Report (FIR) No.174/2019 registered with
Mulund Police Station, for the offence punishable under
Sections 302, 326, 504, 506 read with 34 of the Indian
Penal Code, 1860 (hereafter 'the IPC' for short).

3. The date of the incident is April 25, 2019. The
applicant was arrested on April 29, 2019. The applicant is in

custody for more than 3 years and 8 months. The investigation is complete. The charge-sheet has been filed.

4. Learned APP and learned counsel for the informant vehemently opposed this application.

5. Learned counsel for the informant submitted that apart from the fact that the applicant has instigated the assailants, criminal cases are registered against the applicant. It is vehemently urged that the applicant is a threat and may tamper with the witnesses.

6. There are criminal antecedents reported against the applicant. The criminal antecedents are in nature of the offence alleged against the applicant under Sections 326 and 354 of the IPC in the year 2018. The applicant was 19 years of age when the alleged incident took place. I was reluctant to release the applicant on bail considering the antecedents. However, from the facts disclosed as regards the alleged incident, *prima facie*, it does not appear that it was pre-planned. The applicant is not the assailant. The role alleged is that he was in the company of the assailants and instigating the other accused. The actual assailants are

accused Suraj Salve and Siddhesh Dagale.

7. I am informed that the charge has been framed. However, the examination of the witnesses has not so far begun for one reason or the other. Considering the role of the applicant and the applicant now is in custody for more than 3 years and 8 months, with the possibility of the trial taking quite some time, the applicant could be released on bail. There are criminal antecedents reported against the applicant. That by itself is not sufficient to deny the applicant the facility of bail. However, stringent conditions need to be imposed while releasing the applicant on bail.

ORDER

- (a) The application is allowed;
- (b) The applicant – Umer Ibrahim Sayyed in connection with FIR No.174/2019 registered with Mulund Police Station, shall be released on bail on furnishing P.R.bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (c) The applicant shall report to the concerned police station once in a month on every Monday, between 11.00 a.m. and 1.00 p.m. till further orders;

(d) The applicant shall remove himself from Mumbai/ Mumbai Suburban District till the trial is over. He shall not enter Mumbai/Mumbai Suburban District except on the dates fixed by the trial Court and for reporting to the Investigating Officer;

(e) 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.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change.

8. The application is disposed of.

(M. S. KARNIK, J.)