

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

**BAIL APPLICATION NO.384 OF 2023
WITH
INTERIM APPLICATION NO.2493 OF 2023
WITH
INTERIM APPLICATION NO.1920 OF 2023
IN
BAIL APPLICATION NO.384 OF 2023**

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MEGHA SHREEDHAR
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1. Chetan Dilip Shejwal
2. Siddhant Dilip Shejwal

...Applicants

Versus

The State of Maharashtra

...Respondent

...

Mr. Subhash Jha with Ms Shraddha Kataria, Clifford Gonsalves i/b. M/s. Law Global for the Applicants.

Mr. R.M. Pethe, APP for the Respondent-State.

Mr. Mahesh D. Pol for the Intervenor.

Mr. Vaibhav Khade, PSI, D.N. Nagar Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 26th JULY, 2023.

P. C. :-

1. This is an Application under Section 439 of Cr.P.C. filed by the aforesaid Applicants who are facing trial in Sessions Case No.181 of 2022 pending on the file of learned Sessions Judge, Dindoshi. The aforesaid case arises from C.R.No.568 of 2021 registered with D.N. Nagar Police Station, Mumbai, for the offences punishable under Sections 307, 324, 326, 452, 427, and 506(II) r/w. 34 of the Indian

Penal Code.

2. Heard Mr. Subhash Jha, learned counsel for the Applicants, Mr. Mahesh Pol, learned counsel for the Intervenor and Mr. R.M. Pethe, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR dated 16/07/2021 lodged by Khwaja Mohammed Shaikh. The facts narrated in the FIR prima facie reveal that the First Informant as well as the Applicant and their father – Dilip Shejwal are the residents of the same building viz. Vighnaharta Society. Their relationship was strained since about two years prior to the incident, over parking issue. The First Informant has alleged that on 15/07/2021 at about 9.30 p.m. while he and his nephew-Zahir and his friends- Chadrashekhhar Gauda, Balu Navgare, Shekhar Sameer and Saddam were in the office, the co-accused Jay Shejwal and three unknown persons entered the office armed with weapons. The co-accused Jay Shejwal, in an attempt to cause death of the First Informant, inflicted blows of knife on his head and on other parts of his body. It is further stated that the three

unknown persons also inflicted injuries on Chandrashekhar Gauda, Balu Navgare and Zahir. The co-accused and the three unknown persons threatened them as well as others, gathered at the spot to cause their death. Based on the said FIR the aforesaid crime came to be registered.

4. The statements of the injured witnesses -Chandrashekhar Gauda, Zahir and Balu Navgare were recorded on 16/07/2021. These witnesses have also stated that the co-accused Jay Shejwal and three unknown persons entered the office of the First Informant on 15/07/2021 and assaulted them with sharp weapons such as knife, sickle, etc. These witnesses have further stated that while they were proceeding towards the hospital by an autorikshaw, the Applicants and their father-Dilip Shejwal came armed with iron rods and stopped the autorickshaw near Building No.2. They abused the First Informant and assaulted the witness-Zahir with iron rod.

5. It is pertinent to note that there is no reference to the second incident in the FIR. The two remand reports dated 20/07/2021 as well as 24/07/2021 also do not make any reference to the second incident. The reference to this incident is made only in the

supplementary statement recorded on 24/07/2021.

6. The medical records reveal that injured -Zahir had given history of assault by 6 to 7 persons. The medical record indicate that he had suffered a lacerated wound. There were no fractures or any other bone soft tissue abnormality. The Medical report does not prima facie corroborate the statement of the First Informant and witnesses that the Applicants and two other co-accused had assaulted Zahir with iron rods.

7. Learned counsel for the Intervenor refers to the statement of Amarsing Wagh and claims that the Applicants were the main conspirators. He submits that the First Informant had undertaken development of slum area. He submits that motive to assault the First Informant was in view of the development of project undertaken by him. No such motive was attributed by the First Informant. On the contrary, as stated earlier, the First Informant refers to a previous incident of the year 2009 over issue of parking of the vehicle.

8. It is stated that the Applicants are in custody since 10/11/2021, charge is not yet framed. Considering the large

pendency, there are no chances of the trial concluding within a reasonable time. Having gone through the entire records and having considered the role attributed to the Applicants, in my considered view this is a fit case to grant bail under Section 439 of the Cr.PC.

9. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicants, who are facing trial in Sessions Case No.181 of 2022 pending on the file of learned Sessions Judge, Dindoshi, arising from C.R.No.568 of 2021 registered with D.N. Nagar Police Station, Mumbai, are ordered to be released on cash bail in the sum of Rs.40,000/- each, for a period of four weeks.
- (ii) The Applicants shall within the said period of four weeks furnish PR bonds in the sum of Rs.40,000/-each with one or two sureties each to the like amount;
- (iii) The Applicants shall report to the D.N. Nagar Police Station, once in three months on the first

Monday of the month till framing of the charge;

(iv) The Applicants shall not tamper with the prosecution evidence and or interfere with the First Informant, his family members and the other witnesses in any manner;

(v) The Applicants shall keep the Investigating Officer informed of their current addresses and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

10. The application stands disposed of.

11. The interim applications stand disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)