

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

BAIL APPLICATION NO. 371 of 2023

Shahjad Ahmed Inayat Ali

Kashmiri

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Sherali S. Khan for the Applicant.

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

Mr. Prashant Gawde, API, Unit-I, DCB, CID, Mumbai.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th JUNE, 2023.

P.C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in Sessions Case No.735/2022 pending on the file of Sessions Court, Greater Mumbai. The said case arises from C.R.No.50/2022 registered with Crime Branch, DCB, CID, Unit-1, Mumbai for offences punishable 114, 143, 147, 307, 323, 324, 326 r/w. 149 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by one Vazir Arun Khan. He has alleged that on 18/05/2022, the Applicant and three others assaulted him without any reason. He claims that the Applicant herein had inflicted a blow of iron rod on his

left hand and the co-accused inflicted blows of bamboo stick on his head and chest. In the FIR, the first informant had implicated the Applicant and three others. However, in the statement under section 164 of Cr.P.C., he has not named the assailants including the Applicant and has merely stated that he was assaulted by total six persons. The medical certificate indicates that the Applicant had sustained '*deformity of elbow*' which is stated to be a grievous injury in addition some abrasions on the right eyebrow. The medical certificate does not prima facie indicate that the first informant had sustained grievous hurt within the meaning of sectionn 320 of Cr.P.C. Considering the nature of the accusations and the material in support thereof, in my considered view, this is a fit case to exercise discretion under section 439 of Cr.P.C. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in Sessions Case No.735/2022 pending on the file of Sessions Court, Greater Mumbai arising out of C.R.No.50/2022 registered with Crime Branch, DCB, CID, Unit-1, Mumbai, is ordered to be released on cash bail in the sum of Rs.30,000/- for a period of three weeks ;

- (ii) The Applicant shall, within the said period of three weeks, furnish P.R. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;
 - (iii) The Applicant shall report to Crime Branch, DCB, CID, Unit-1, Mumbai on 1st Monday of the month between 11.00 a.m. to 02.00 p.m. until further orders ;
 - (iv) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;
 - (v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
 - (vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.
3. Bail Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)