

PMB

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

BAIL APPLICATION NO.780 OF 2022

ISRAIL ISMAIL KHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Ms. Afreen Shaikh for applicant.

Ms. A. A. Takalkar, APP for State.

Mr. Vilas Tupe, PSI, M.R.A. Marg Police Station is present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 2, 2023.

P.C. :

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

2. This is an application for bail in connection with C.R. No.507 of 2021 dated 29/06/2021 registered with M.R.A. Marg Police Station, Mumbai for the offence punishable under Sections 302, 307, 143, 144, 147, 148, 149 and 34 of the Indian Penal Code, 1860 ("IPC", for short) read with Sections 37(1) and 135 of Maharashtra Police Act.

3. It is alleged that two accused assaulted Sohail and Jahid Khan. Sohail succumbed to the injury. Jahid Khan

suffered injury and therefore, the offence under Section 307 was registered. The FIR is at the instance of the injured witness. He named two accused. The applicant was not named. The incident is in respect of a scooty which belongs to the informant-Jahid Khan. There were some disputes over the scooty. The alleged incident is stated to be the outcome of such a dispute. The main assailant is alleged to be accused No.1. The supplementary statements on the basis of which the applicant is implicated was recorded on 07/09/2021 and 10/09/2021 i.e. after a delay of more than 2 months. The statements of the two of the witnesses implicating the applicant are recorded on 07/09/2021 and 10/09/2021. The role attributed to the applicant in the supplementary statement of the witnesses is that the applicant assaulted the deceased and injured with a bamboo stick. The applicant was arrested on 01/07/2021. The injured witness in his FIR did not name the applicant. The name of the applicant was revealed only in the supplementary statement recorded after an unexplained delay of more than 2 months. The applicant is not identified

in the test identification parade. In this view of the matter, the applicant can be released on bail. It is however pointed out by learned APP that there are as many as 11 criminal antecedents reported against the applicant since the year 2013. Having regard to the role of the applicant and delay in recording the supplementary statements, in my opinion, merely because there are criminal antecedents reported against the applicant will not by itself be a ground to refuse bail to the applicant.

4. Taking an overall view of the matter, it would be necessary for the applicant to remove himself and even learned counsel for the applicant submits that the applicant will remove himself out from the jurisdiction of Mumbai Suburban district during the pendency of the trial. The applicant is in custody since 01/07/2021 for a period of more than 1 year and 4 months. The trial is not likely to commence and conclude any time soon. Considering the role assigned to the applicant, I am inclined to release the applicant on bail but by imposing some stringent conditions. Hence, the following order :-

: ORDER :

- (a) Application is allowed.
- (b) Applicant-Israil Ismail Khan shall be released on bail in connection with C.R. No.507 of 2021 registered with M.R.A. Marg Police Station, Mumbai, on furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.
- (e) The applicant shall not enter Mumbai Suburban district on being released on bail except for reporting to the concerned Police Station once in a month on the first Monday of every month between 11.00 a.m. and 1.00 p.m.

5. The Bail Application is disposed of.

(M. S. KARNIK, J.)