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

BAIL APPLICATION NO.689 OF 2023

DANIYAL REHMAN KHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Sherali S. Khan for the Applicant.

Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 31, 2023

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 326, 324, 323, 504 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered vide C.R. No.347 of 2022 with J.J. Marg Police Station, Mumbai later transferred to Crime Branch, DCB, CID vide C.R. No.50 of 2022 under Sections 307, 323, 324, 326, 143, 147, 149, 114 read with 34 of the IPC.

3. The FIR was registered on 19.05.2022. The applicant was arrested on 23.05.2022. The applicant is the accused

No.1. For the sake of convenience, I refer to the order dated 28.06.2023 passed in Bail Application No.371 of 2023 in respect of accused No.2-Shahjad Ahmed Inayat Ali Kashmiri. The order reads thus :-

"1. This is an Application under section 439 of Cr.P.C. 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 section 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."

4. The role of the applicant is much lesser than that of Shahjad. Shahjad is enlarged on bail by this Court.

5. Learned counsel for the applicant submits that there are no criminal antecedents reported against the applicant. There is nothing on record to indicate that there are antecedents against the present applicant.

6. In this view of the matter and as all other accused have been enlarged on bail and even the main accused- Shahjad is enlarged on bail, the present application deserves to be allowed. The investigation is complete. The charge-sheet has been filed. Hence, the following order :-

ORDER

(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 bail in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;

(ii) Applicant is permitted to furnish provisional cash bail security in the sum of Rs.30,000/-, for a period of four weeks, in lieu of surety;

(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.

7. The application is disposed of.

(M. S. KARNIK, J.)