

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

BAIL APPLICATION NO. 1549 OF 2022

Nitin Ashok Upadhyay @ Baccha ..Applicant
VS.
The State of Maharashtra ..Respondent

Adv. Ammar Nizami a/w Abdul wahab Shaikh for the Applicant.

Mr. S. H. Yadav, APP for the State.

API – Yogesh Bendkule, Badlapur Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 13, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail by the applicant- Nitin Ashok Upadhyay @ Baccha in connection with C.R. No.02 of 2021 dated 01/01/2021, registered with Badlapur Police Station, under sections 307, 323, 504, 506 and 34 of the Indian Penal Code, 1860 ("IPC" for short).
- 3.** The injured witness is Sumit Poojary. There was a quarrel which took place between 2 groups on new year's eve. It appears that the group belonging to the applicant's side wanted the group from the first informant's side to

provide alcohol. It is alleged that the co-accused Nilesh assaulted the injured witness (Sumit Poojari) on the head with a stone. The role assigned to the present applicant is that he held the hand of the first informant.

4. The applicant is not the assailant. The applicant is in custody since 01/01/2021, for a period of more than 2 years and 2 months. There are criminal antecedents reported against the applicant, one under section 379 of the IPC which pertains to the year 2015 and the other under the Gambling Act. The applicant, in my opinion, should not be deprived of the facility of bail, considering the nature of the accusations and his role, only on the ground that there are antecedents against him. The investigation is complete and the charge-sheet has been filed. Considering the nature of the accusations and the period that the applicant is in custody, with the possibility of the trial concluding any time soon appearing remote, the applicant could be enlarged on bail. Hence, the following order.

ORDER

(a) applicant- Nitin Ashok Upadhyay @ Baccha
in connection with C.R. No.02 of 2021, registered

with Badlapur Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;

(b) 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;

(c) The applicant shall report to the concerned police station once a month i.e. on first Monday between 11.00 a.m. and 1.00 p.m;

(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.

5. The application is disposed of.

(M. S. KARNIK, J.)