

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

CRIMINAL BAIL APPLICATION NO. 2231 OF 2022

Harish Tomara Devadiga

...Applicant

V/s.

The State of Maharashtra

... Respondent

**NILAM
SANTOSH
KAMBLE**
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Mr.Deepak Gautam a/w Ms.Nandini Vasaikar, for the Applicant.
Ms.P.N. Dabholkar, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th SEPTEMBER 2023

P.C:-

1. By this Application, Applicant is seeking bail in Crime No.112 of 2021 registered with Borivali Police Station, Mumbai, for the offences punishable under Sections 307, 394, 324 and 504 of the Indian Penal Code ('IPC' for short), Section 37(1) and 135 of the Maharashtra Police Act and Section 3 and 25 of the Indian Arms Act.

2. The prosecution's case in brief is that, the Applicant had gone in the hotel where Complainant was working, on the

account of recovery remaining fare of his autorishaw there he pointed out revolver at Complainant's brother and thereafter he assaulted Complainant and his brother with knife on their wrist.

3. It is contention of learned counsel for the Applicant that, the allegations against the Applicant are that, he pointed out revolver/country made pistol at Complainant's brother but he did not fire it. Moreover, the injuries caused to Complainant and his brother on their wrist are not grievous injuries. These are simple injuries, so no case is made out under Section 307 of IPC against the Applicant. The Applicant is behind bar more than 2 years and six months. Hence, requested to allow the Application.

4. It is contention of the learned APP that, the Applicant is habitual offender. He has antecedents. He had pointed out country made pistol towards the witnesses under Section 307 of IPC. It is not necessary to fire, mere pointing out the pistol amounts to attempt to murder. Moreover, Applicant had assaulted Complainant and his brother with knife on their wrist's. Considering the antecedents of the Applicant, Application be rejected.

5. I have heard both learned counsels. Perused FIR and charge-sheet.

6. The allegation's against the Applicant are that, he pointed out country made pistol at the brother of the Complainant. He assaulted by knife to the Complainant and his brother on their wrist. The medical papers are produced on record, in respect of injuries caused to complainant and his brother shows no nature of injuries are mentioned in it, which is at page 105 of the charge-sheet. Investigation is completed and charge-sheet has been filed. Though APP submitted that, Applicant is habitual offender and in other cases he has been released on bail. A person who is termed as habitual offender cannot detained only on the ground that there is antecedents against him. The Applicant is in jail more than two years and six months, his further detention is not required.

7. In view of above, I pass following order.

ORDER

(i) The Applicant be released on bail in Crime No.112 of 2021 registered with Borivali Police

Station, Mumbai, on furnishing PR bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(ii) After his release from jail the Applicant shall attend the Borivali Police Station, Mumbai, once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till the framing of charge.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)