

VRJ

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

BAIL APPLICATION NO.2554 OF 2022

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
DN: cn=VAIBHAV RAMESH
JADHAV, o=, ou=, email=, c=IN
15:27:28 +0530

Jalil Ahmad Mohammad Ayyub Alias

Jalla

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Mahendra N. Sandhyanshiv for the applicant.

Ms. Veera Shinde, APP for the respondent/State.

Mr. Rajendra S. Gosavi, PSI, Ramjanpura Police
Station, Malegaon is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 18, 2023

P.C.:

1. This is an application under section 439 of the Criminal Procedure Code, 1973 in connection with C.R. No.62 of 2021 registered with Ramjanpura Police Station, Malegaon for offences punishable under sections 302, 201 of the Indian Penal Code, 1860 and sections 37(1)(3)/135 of the Bombay Police Act, 1951 and section 4/25 of the Arms Act, 1959.

2. According to the prosecution, incident took place on 27th July 2021 at 07:15 p.m. It is alleged that the informant received a call from his brother Abrar who told him that accused along with other accused persons came to Pan Shop and demanded Pan

Masala. On refusal to supply the goods due to non-payment, quarrel took place between the accused persons and the informant's brother. It is alleged that accused No.1 assaulted the deceased with knife on his chest and abdomen. Accused No.2 assaulted the deceased with sword on his head. Role attributed to the applicant is of instigation after the deceased fell down.

3. The applicant was arrested on 9th September 2021. The investigating agency completed the investigation and filed charge-sheet against the applicant and others.

4. The Sessions Judge by order dated 31st March 2022 rejected the application filed by the applicant.

5. On perusal of the charge-sheet and statement of the eye-witness recorded under section 164 of the Criminal Procedure Code, 1973, it appears that the role attributed to the applicant is of instigation to other accused persons. The applicant was not carrying any weapon. There is no recovery from the applicant. The applicant has no criminal antecedents to his discredit. Active role is attributed to accused Nos.1 and 2. The investigation is complete and charge-sheet is filed. The incident occurred due to refusal to supply goods.

6. On overall consideration of the factors stated above, the applicant has made out a case for his release under section 439 of the Criminal Procedure Code, 1973. Hence, following order:

- a) The applicant be released on bail in relation to C.R. No.62 of 2021 registered with Ramjanpura Police Station, Malegaon for offences punishable under sections 302, 201 of

the Indian Penal Code, 1860 and sections 37(1)(3)/135 of the Bombay Police Act, 1951 and section 4/25 of the Arms Act, 1959 on furnishing P.R. Bond in the sum of Rs.25,000/- along with one or two sureties in the like amount;

b) The applicant shall mark his presence before the concerned police station on first Saturday of every month between 11.00 a.m. to 2.00 p.m.;

c) The applicant shall remain present before the Trial Court on each and every date unless specifically exempted by the Court;

d) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

7. The bail application stands disposed of in above terms.

(AMIT BORKAR, J.)