



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

BAIL APPLICATION NO. 2384 OF 2023

SHAIKH ALIM SHAIKH KADIR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Nikhil G. Hire for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI V.A. Pardeshi, Pawarwadi Police Station, Nashik.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 03, 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 307, 143, 147, 148, 452, 504, 506 and 34 of the Indian Penal Code, Sections 37(1)(3) read with 135 of the Maharashtra Police Act and under Sections 4 read with 25 of the Arms Act registered on 12/12/2022 vide C.R. No.249 of 2022 with Pawarwadi Police Station, Nashik.

3. The applicant was arrested on 19/12/2022. For ease of reference, the order dated 24/08/2023 passed in Bail Application Nos. 1520 of 2023 and 1522 of 2023 while enlarging the co-accused on bail is reproduced hereinbelow:

"2. These are applications for bail in respect of the offence punishable under Sections 307, 143, 147, 148, 149, 452, 504, 506 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 37(1) (3) read with Section 135 of Maharashtra Police Act and under Section 4 read with Section 25 of Arms Act registered vide C.R. No.249 of 2022 with Pawarwadi Police Station, Taluka Malegaon, District Nashik.

3. In so far as co-accused – Abu Talha Israil is concerned, this Court by an order dated 24.07.2023 enlarged the co-accused on bail in Bail Application No.1819 of 2023. The order reads thus :-

"1. This is an application under Section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with C.R. No.249 of 2022 registered with Pawarwadi Police Station for offences punishable under Sections 307, 143, 147, 148, 452, 504 and 506 read with Section 149 of the Indian Penal Code, 1860 and under Section 37(1) (3) and read with Section 135 of the Maharashtra Police Act, 1951 and under Section 4 read with Section 25 of the Arms Act, 1959.

2. According to prosecution, in the month of July 2022 the applicant and some others assaulted Mohammad Radhid, the friend of informant – Akib Ahmed Shakil Ahmed. At that time, the informant lodged complaint against them in the police station. Since then the applicant and other accused had

grudge in their mind against the informant.

3. On 12 December 2022 at about 2.00 a.m., when the informant was taking meal, suddenly somebody kicked the door of his house and thereafter Rabbani, Abdul Rehaman, Naksab Kalya and Mohasin entered with deadly weapons like sword, koyta and iron pipes. At that time, three to four unknown persons with deadly weapons were standing outside the house. Accused Rabbani abused informant in filthy language and asked him as to why he gave statement against him before the police. Then, the said three accused persons assaulted informant by deadly weapons. When the informant tried to rescue, he sustained grievous injury of finger of his both the hands. The informant collapsed and the accused persons left the spot. The informant called his friend Mohammad Jaffar. Accordingly, Mohammad Jaffar along with Sharif Special and Sharif Kalya came there and took the informant to Civil Hospital, Malegaon from where he was shifted to Sai Sahyadri Hospital, Malegaon for further treatment. Police came and recorded his statement and accordingly first information report came to be registered.

4. On perusal of the charge-sheet, it appears that the victim himself lodged report. He named four persons. The applicant is not named in the first information report. However, statement of witnesses recorded on the next day indicate presence of the applicant. According to prosecution, the applicant along with other three co-accused assaulted the victim by iron rods. The Medico Legal Certificate produced on record indicates all injuries of incised wound. The cause of injuries is attributed to sharp edged object.

5. The applicant was arrested on 10 January 2023. The victim himself named the applicant only on 24 December 2022 attributing joint role to the applicant along with three other persons.

6. There are no criminal antecedents to the discredit of the applicant. Charges are yet to be framed. It is unlikely that the trial will be over in near future.

7. On overall consideration of the factors mentioned above, the applicant has made out a case for release under Section 439 of the Criminal Procedure Code, 1973."

4. The applicant-Sajid s/o Rozan Ansari is the accused No.6 and the applicant-Salik Iqbal Obaidurrahman is the accused No.7 who are at par with the co-accused Abu Talha Israil who is enlarged on bail. In the FIR the applicants were not named. There are no criminal antecedents reported against the applicants. The applicants were arrested on 10.01.2023. The role attributed to the applicants was only on 24.12.2022 in the supplementary charge-sheet. The investigation is complete and the charge-sheet has been filed. Considering the nature of the accusations these applications can be allowed."

4. The applicant is accused No.5. The role of the applicant is identical to the co-accused who have been enlarged on bail. There are no criminal antecedents reported against the applicant. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Shaikh Alim Shaikh Kadir in connection with C.R. No. 249 of 2022 registered with Pawarwadi 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.

(c) The applicant shall attend the Investigating Officer of Pawarwadi police station once in a month every first Saturday of the month between 11.00 a.m. and 2.00 p.m.

(d) 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.

(e) The applicants shall, at the time of execution of the bond, furnish their addresses and mobile numbers to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

5. The application is disposed of.

(M. S. KARNIK, J.)