



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

BAIL APPLICATION NO. 2783 OF 2023

MOHD. TAUSIF@LAMBU MUJAFAR ANSARI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Ms. Tahera Qureshi, for the applicant.
Ms. Veera Shinde, APP for the State.
Mr. Balasaheb Gavhane, PSI, Shantinagar Police Station present.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 14, 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 302 read with 34 of the Indian Penal Code, 1860 (hereafter 'IPC' for short) and under section 37(1) and 135 of Maharashtra Police Act, 1951 registered on 10/08/2021 vide C.R. No.0547 of 2021 with Shantinagar Police Station, Thane.
- 3.** The present applicant is accused no.1. My attention is invited to the order dated 04/09/2023 passed in Bail Application No. 1896/2023. The said order reads thus :

“ 3. There are in all four accused. The applicant is the accused no.1. According to the eye witnesses version, the deceased started conversation with the accused which the accused found abusive. The eye witnesses state that there was scuffle between the applicant and the deceased. The accused no.2 who had a knife in his hand, stabbed the deceased. It is the case of the applicant that cross case was registered against the deceased and other accused persons that they had brutally assaulted the present applicant. The applicant was in ICU almost for 20 days. The injury certificate is on record.

4. Learned APP submitted that it is the mob who assaulted the present applicant and not the accused whose names are mentioned in the cross-case filed against the deceased and other accused at the instance of the present applicant. Learned APP also invited my attention to the statement of Heena Mohammad Shahid Ansari to submit that even the applicant has a role in stabbing the deceased. The knife was recovered at the instance of the accused no.2. However, from the material on record, prima facie, reveals that it is the accused no.2 who used the knife to stab the victim. Prima facie, the provocation was at the instance of the deceased. From the facts and circumstances on record, whether the applicant shared a common intention with the accused no.2 is a matter which can go into during trial.

5. The applicant was arrested on 6/11/2021 and is in custody for more than one year and nine months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In my opinion, the applicant does not appear to be a flight risk.”

4. In the order dated 04/09/2023, inadvertently, the applicant-Sameer Shafiqulla Khan is mentioned as accused no.1, actually the correct position is that Sameer Shafiqulla Khan is accused no.4. The present applicant is accused no.1. The role of the present applicant is similar to that of accused no.4 -Sameer Shafiqulla Khan who has been enlarged on bail. Though learned APP opposed the application,

the present applicant can be enlarged on bail. There is no criminal antecedents reported against the applicant. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Mohd. Tausif @ Lambu Mujafar Ansari in connection with C.R. No.I-547/2021 with Shanti Nagar Police Station, Thane, shall be released on bail on his furnishing PR. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Shanti Nagar police station, Thane, once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (e) 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.

(f) 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.)