

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

CRIMINAL BAIL APPLICATION NO. 3278 OF 2022

Saddam @ Bhail Firdoz Israr Khan	...Applicant
Versus	
The State Of Maharashtra	...Respondent

Mr. M. K. Kocharkar a/w Mujeeb Pathan and Mohd. Ahmed for the Applicant.
Mr. Y. Y. Dabke, APP, for the Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 4th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in C.R. No. 270 of 2022 registered with Deonar Police Station, Mumbai for the offences punishable under Sections 302, 120-B, 323 read with 34 of Indian Penal Code, 1860 (for short "IPC") and Sections 4, 25, 27 of the Arms Act and Sections 37(1) and 135 of Maharashtra Police Act.

2. It is prosecution's case that on 22nd April, 2022 at about 9:30 p.m, the complainant who is Auto Rikshaw driver was waiting

in queue at Baiganwadi for passengers. At that time, a heated exchange of words took place between accused no. 1- Sakir, and Salim over accommodating passengers and Sakir abused and threatened Salim by stating that, he would not allow him to celebrate the festival of EID. Applicant was also present there, he also threatened the Salim. Thereafter, on 23rd April, 2022 at about 5:30 p.m. accused no.1-Sakhir and co-accused Sadiq armed with sharp weapons along with co-accused Siddhant arrived at incident spot and started assaulting Salim, on his chest, stomach, hands and back. After some time, all the accused ran away, at that time, the complainant noticed that applicant was also present with assaulters, Salim succumbed to injuries sustained by him.

3. It is contention of learned counsel for the applicant that complainant knows the applicant. He has not mentioned the role of applicant, only he has stated that he saw the applicant running away with assaulter. Applicant is behind bar for more than two years. Investigation is completed and charge-sheet has been filed. Hence, requested to allow the application.

4. Learned APP submitted that applicant was present, when incident happened. The eye witnesses have seen the applicant with co-accused. He assaulted the deceased. It shows his involvement in present crime. Applicant has criminal antecedents. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and Charge-sheet.

6. In the complaint, allegations against the applicant are that after the assault, complainant saw applicant running with the co-accused. In the statement of witness Firoz Ahmed Shaikh, he has stated that applicant had threatened the deceased. In the statement of eye witness Mr. Hasim Qureshi, he has stated that applicant was telling the co-accused about the location of deceased. Complainant knows the applicant and he has specifically stated about the role played by the co-accused who assaulted the deceased. The complainant has not stated that applicant had assaulted the deceased. Investigation is completed and charge-sheet has been filed. Applicant is behind bar for more than two years.

7. Considering the above facts, further detention of applicant is not required.

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

ORDER

(i) Applicant be enlarged on bail in C.R. No. 270 of 2022 registered with Deonar Police Station, Mumbai, on executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

(ii) Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11:00 a.m. to 2:00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or

attempt to influence or contact the complainant,
witness or any person concerned with the case.

(v) Applicant shall not enter in the area of
Shivajinagar, Govandi till the conclusion of trial.

(vi) The Trial Court shall decide the said case on its
own merits, in accordance with law uninfluenced
by the observations made in this order.

9. The application is allowed in the aforesaid terms and is
accordingly disposed of.

10. All concerned to act on the authenticated copy of this
order.

(SHIVKUMAR DIGE, J.)