

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

BAIL APPLICATION NO. 3385 OF 2022

Mr. Firoz Hanif Shaikh

... Applicant

v/s.

The Sr. Police Inspector,
Kurla Police Station,
Mumbai and anr.

.... Respondents

**WITH
INTERIM APPLICATION NO.450 OF 2023
IN
BAIL APPLICATION NO. 3385 OF 2022**

Ms. Rehana Khanam Ibrahim Khan

... Intervenor

In the matter between :-

Mr. Firoz Hanif Shaikh

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Rajendra Mokashi a/w. Aditya Mokashi
for the Applicant.

Mrs. A.A. Takalkar, APP for the State.

Mr. Viral Rathod a/w. Mr. Vishwate Jadhav i/b.
Jatin Jamkhandi for the Intervenor.

Mr. Rasal, PSI, Kurla Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th JULY, 2023.

P.C. :-

. This is an Application under section 439 of Cr.P.C. filed by the
aforesaid Applicant who is facing trial in Sessions Case No.1017/2022

pending on the file of learned Sessions Judge, Mumbai. The said case arises from C.R.No.621/2022 registered with Kurla Police Station, Mumbai for offences punishable under sections 307, 452 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Rehana Ibrahim Khan. The records prima facie reveal that the first informant and her family members are the tenants of premises situated at Kurla. The Applicant herein is a developer. The first informant claims that they had not assigned development rights in favour of the Applicant. There appears to be dispute between the Applicant and the family members of the first informant. It is alleged that on 16/07/2022, at about 08:00 p.m., the Applicant inflicted a blow of knife on the head of Shibu, the brother of the first informant. It is stated that the Applicant and others also abused and threatened the first informant and others.

4. The medical certificate reveals that the injured had sustained one CLW which is stated to be simple in nature. The records prima facie reveal that the injury was superficial which suggest that the Applicant had not given a forceful blow and had no intention to cause death of the injured – Shibu.

5. The records reveal that the Applicant had also lodged the FIR pursuant to which C.R.No.623/2022 has been registered against the family members of the first informant including Shibu for offence punishable under sections 324 of the Indian Penal Code. The Applicant is in custody since 25/07/2022. It is stated that till date, charge has not been framed. Considering the large pendency, there is no possibility of the trial commencing soon.

6. Considering the above facts and circumstances, this is a fit case to exercise discretion under section 439 of Cr.PC. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in Sessions Case No.1017/2022 pending on the file of learned Sessions Judge, Mumbai arising from C.R.No.621/2022 registered

with Kurla Police Station, Mumbai, is ordered to be released on bail on furnishing PR. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;

- (ii) The Applicant shall report to Kurla Police Station, Mumbai once in 3 months on every 1st Monday between 11.00 a.m. to 02.00 p.m. till framing of the charge ;
- (iii) The Applicant shall not enter the area wherein the Complainant and her family members are residing ;
- (iv) The Applicant shall not interfere with the complainant and her family members and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;
- (v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (vi) The Applicant shall co-operate with the conduct of the trial

and attend the trial Court on all dates, unless exempted.

7. Bail Application as well as Interim Application stand disposed of in above terms.

PREETI
HEERO
JAYANI

Digitally signed
by PREETI
HEERO JAYANI
Date: 2023.07.20
17:57:37 +0530

(SMT. ANUJA PRABHUDESSAI, J.)