



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

BAIL APPLICATION NO. 3533 OF 2023

ATTAR ANIS KHAN ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION (ST) NO. 23272 OF 2023
WITH
INTERIM APPLICATION (ST) NO. 23270 OF 2023
IN
BAIL APPLICATION NO. 3533 OF 2023**

AJAY MOTIRAM PATIL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Mubin Solkar a/w Adv. Tahir Hussain a/w Adv. Anas
Shaikh a/w Adv. Tahera Qureshi for the Applicant.

Adv. R.D. Suryawanshi for the Complainant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 14, 2023

P.C. :

1. Heard learned counsel for the applicant, learned counsel for the complainant and learned APP for the State.
2. This is an application for bail in respect of the offence

punishable under Sections 302, 324, 323, 12-B, 504, 143, 147, 148, 149 of the Indian Penal Code, Section 37(1) of the Maharashtra Police Act and Sections 4 and 27 of the Arms Act registered on 29/10/2020 vide C.R. No.251 of 2020 with Shivajinagar Police Station, Thane.

3. It is the case of the prosecution that on 28/10/2020, the complainant along with his deceased brother and injured witness was walking towards the construction site of Jainaam Residency. They saw the accused which included the present applicant standing near R-Mart situated on the ground floor of Jainaam Residency. The applicant is accused No.4. The prime accused is D-Mohan had a heated conversation with the deceased regarding the iron fabrication work that was carried out. The dispute is about the business rivalry relating fabrication work. It is alleged that the prime accused started abusing the deceased and his acquaintances. In the scuffle that followed, it is alleged that the applicant assaulted the deceased with kick blows.

4. The applicant though has alleged to be carrying sharp-edged weapons, reading of the statements of the witness

prima facie reveals that the applicant was not the actual assailant. It is alleged that the applicant created terror by running after the injured witness with sharp-edged weapons.

5. Learned APP and learned counsel for complainant opposed the application. It is submitted that the involvement of the applicant is complicit as he was seen in the CCTV footage as well. It is further submitted that the applicant actively participated in the assault. My attention is invited to the statements of the witnesses and an attempt was made to submit that even the applicant was part of the assault. It is further submitted that blood-stained clothes and 2 sickels were recovered at the instance of the applicant. It is submitted that the applicant can not claim parity with the co-accused Vilas @ Bhau Madhukar Khaire who is enlarged on bail by the Hon'ble Supreme Court.

6. On careful perusal of the materials, prima facie, it appears that the applicant is not the actual assailant. Though CCTV footage is heavily relied upon, it is not even pointed out from the transcripts of the CCTV that the

applicant is seen actually assaulting the deceased or the injured witnesses. The present applicant is nonetheless seen at the scene of the incident. The applicant was arrested on 20/10/2020 and is in custody for more than 3 years and 2 months. Even the charge has not been framed. There are no criminal antecedents reported. Continuation of his custody will only be by way of pre-trial punishment. The applicant will face the consequences post-trial if found guilty. In these circumstances, I am inclined to enlarge the applicant on bail by imposing stringent conditions, in view of the role i.e. assigned to the applicant and looking at the length of his incarceration as an undertrial. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Attar Anis Khan in connection with C.R. No.251 of 2020 registered with Shivajinagar Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.
- (c) Except for attending the trial, the applicant shall not enter the area of Thane district, Mumbai and

Mumbai Suburban district till the conclusion of the trial.

(d) The applicant shall report to the police station nearest to his residence while residing outside the aforesaid districts once every first Sunday of the month, between 11.00 a.m. and 1.00 p.m. till conclusion of the trial.

(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.

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

7. The application is disposed of. The interim applications also stand disposed of.

(M. S. KARNIK, J.)