

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3485 OF 2022

Aryan Haroon Sayyed ... Applicant
V/s.

The State of Maharashtra ... Respondent

Mr. Vivek Punjabi a/w advocate P. Singh, for applicant.

Ms. Pallavi N. Dabholkar-APP for State.

CORAM : G.A. SANAP, J

DATE : 30th October 2023.

PC:

1. The accused-accused no. 2 has made this application for bail in Crime No. 1-263/2021 registered with Bazarpeth Police Station, Kalyan for the offence punishable under sections 397, 394, 504, 506(2), read with section 34 of Indian Penal Code (in short 'IPC').

2. Learned advocate for the accused no. 1 submitted that the remaining two accused, who have participated in the incident were granted pre-arrest bail by the Sessions Court. Learned advocate submitted that after completion of the investigation, the charge-sheet has been filed, but the charge has not yet been framed. Considering the nature of the offences and particularly nature of injuries sustained by

the informant, accused no. 1 cannot be kept behind the bar for indefinite period. It is pointed out that the trial is not likely to commence in near future. Learned advocate submitted that learned Additional Sessions Judge, on the basis of criminal antecedents of the accused rejected the bail. Learned advocate submitted that on the basis of the criminal antecedents depending upon the nature of crime, the bail cannot be denied to the accused. Learned advocate submitted that the accused is ready to abide by conditions that may be imposed by this Court.

3. Learned APP submitted that the criminal antecedents of the accused are such that accused could not be released on bail. Learned APP submitted that if he is released on bail then he would threaten the witnesses. Learned APP submitted that number of criminal cases are pending against the accused in the Court of law and as such the accused has criminal antecedents. Learned APP submitted that causing of injury is sufficient to attract the offence under section 394 of IPC.

4. The accused was arrested on 20.08.2020. It is undisputed that seven crimes are pending against the accused. In those crimes he has been released on bail. I have perused the nature of crimes registered against the accused. It needs to be stated on account of the

criminal antecedents the bail cannot be rejected provided the accused in a given case on the basis of facts and circumstances is otherwise entitled his bail. The criminal antecedents needs appreciation keeping in mind the facts of the given case. Two co-accused have been granted anticipatory bail. It is seen on perusal of the FIR that specific similar role was attributed to them as well.

5. Perusal of the order passed by learned Additional Judge would show that considering his criminal antecedents he was found not entitle to get bail. Charge-sheet has been filed. The charges have not been framed. No statement has been made on behalf of the prosecution as to the approximate time taken in the completion of the trial. Considering the nature of the offence alleged to have been committed by the accused in this case, in my view, further incarceration may not be warranted. It is to be noted that for the purpose of custodial interrogation his detention is not necessary. Most important aspect brought to the notice of the Court by the learned prosecutor is about his criminal antecedents. The apprehension has been placed on record that considering his criminal antecedents, he can tamper with the prosecution evidence and terrorize the prosecution witnesses. In my view, on the basis of this apprehension

the bail cannot be denied. The grievance an apprehension put forth by learned APP can be taken care of by imposing appropriate conditions. Accordingly, the application is allowed on the following terms and conditions:-

ORDER

- (i) The criminal application is allowed.
- (ii) Applicant/accused – Aryan Haroon Sayyed be released on bail in Crime No. 1-263/2021 registered with Bazarpeth Police Station, Kalyan for the offence punishable under sections 397, 394, 504, 506(2), read with section 34 of Indian Penal Code (in short ‘IPC’) on his furnishing P.R. Bond in the sum of Rs. 1,00,000/-- (Rupees one lakh only) with solvent surety in the like amount.
- (iii) The applicant shall not in any way tamper with the prosecution evidence.
- (iv) The applicant shall not pressurize or threaten the prosecution witnesses and victim.
- v) The accused shall attend Bazarpeth Police Station on ever Saturday between 11.00 a.m. to 2.00p.m. till completion of trial.

7. The application is disposed of in the aforestated terms.

(G.A. SANAP, J)