



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

BAIL APPLICATION NO. 4116 OF 2023

MUSTAQ MAZHAR KHAN
VS.
STATE OF MAHARASHTRA

..APPLICANT
..RESPONDENT

Mr. Shirish Tiwari i/b Mr. Ravishankar Dwivedi, for the Applicant.
Mr. P. H. Gaikwad, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 22, 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 307, 323, 504, 506 read with 34 of the Indian Penal Code, 1860, under section 142 of Maharashtra Police Act and under sections 4 and 25 of the Arms Act registered on 05/04/2022 vide C.R. No.277 of 2022 with Santacruz police station.
3. The applicant is the accused no.1. The applicant was arrested on 05/04/2022.
4. The date of the incident is 04/04/2022. Learned

counsel for the applicant submitted that the applicant is in custody for more than 1 year and 8 months and even charge has not been framed. Learned APP vehemently opposed the application for bail. Apart from submitting the manner in which the applicant had assaulted the injured witness and the victim which is brutal, it is submitted that the applicant has created a reign of terror in the area. My attention is invited to the chart which is at page 40 of the paper-book to submit that as many as 10 cases in respect of bodily offences are registered against the applicant with Santacruz police station. In respect of one of the offence under section 379 of IPC registered vide CR No. 276 of 2019, the applicant was convicted. The appeal is pending before the Sessions Court. Considering the antecedents, in my opinion, the same by itself are not sufficient to deny the applicant the facility of bail, but while enlarging the applicant on bail, stringent conditions need to be imposed. The accusation in the present case is that the applicant was abusing the residents of the area. The injured witness was an on-looker. The applicant assaulted the injured witness with a koyta, a sharp edged weapon. I have perused the

injury certificate. The injuries are in the nature of abrasions on the right leg, left knee and right shoulder and left back by blunt weapon. One of the injury is contused lacerated wound on occipital scalp with blunt object. Considering that the applicant is in custody for more than 1 year and 8 months with no possibility of the trial concluding any time soon and also considering that the investigation is complete, the charge-sheet has been filed, in the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mustaq Mazhar Khan in connection with C.R. No. 277 of 2022 registered with Santacruz police station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the investigating officer of nearest police station to his residence while residing outside the Mumbai/Mumbai Suburban district once in a week on every Sunday of the month between 11.00 a.m. and 1.00 p.m. and as and when called.

(d) 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.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer while residing out of Mumbai/Mumbai Suburban district and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the investigating officer and other criminal cases, the applicant shall not enter the area of Mumbai/Mumbai Suburban after being released on bail, till the trial concludes.

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

5. The application is disposed of.

(M. S. KARNIK, J.)