

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

BAIL APPLICATION NO.160 OF 2024

Abid Yusuf Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Amit Icham, for the Applicant.

Ms. Veera Shinde, APP, for the Respondent-State.

A.P.I. Sandeep Jore, Mundhwa Police Station, District-Pune.

CORAM : MADHAV J. JAMDAR, J.

DATED : APRIL 25, 2024

P.C.:

1. Heard Mr. Amit Icham, learned Counsel for the Applicant and Ms. Shinde, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C.R. No.	167 of 2023
2	Date of registration of F.I.R.	27/05/2023
3	Name of Police Station	Mundhwa, District-Pune
4	Sections invoked	308 r/w 34 of the <i>I.P.C., 1860</i> ; 37(1)(3) & 135 of the <i>Maharashtra Police Act, 1951</i> .
5	Sections applied in Charge-sheet	307, 308 r/w 34 of the <i>I.P.C., 1860</i> ; 4 & 25 of the <i>Arms Act, 1959</i> ; 37(1)(3) r/w 135 of the <i>Maharashtra Police Act, 1951</i> .

6	Date of incident	27/05/2023
7	Date of arrest	28/05/2023
8	Date of filing Charge-sheet	23/08/2023

3. As per the prosecution case, the Informant was working as a waiter in a hotel namely 'Orilla', ABC Road, Mundhwa, Pune. The incident in question took place at about 02.15 a.m. on 27th May 2023 in night. The Informant was on his duty on 26th May 2023 from 04.00 p.m. to 27th May 2023 at 02.00 a.m.. As per the prosecution case, the present Applicant and two others who are children in conflict with law, assaulted the Informant with a sickle as he had not allowed entry to the Applicant and said two other children in conflict with law in the said hotel.

4. It is the contention of Mr. Icham, learned Counsel for the Applicant that the incident had happened on the spur of the moment. He submitted that in the F.I.R., name of the Applicant is not mentioned. No Test-Identification Parade has been conducted. He submitted that the Applicant is young man aged 20 years and that he is a student. He submitted that the investigation has been completed and the Charge-sheet has been filed. He submitted that there are no antecedents against the Applicant.

5. On the other hand, Ms. Shinde, learned APP strongly opposed the Bail Application. She submitted that the Applicant had used a weapon

i.e. a sickle and the same has been recovered from his house. She submitted that there is an eye-witness to the incident. She therefore submitted that the Bail Application be rejected. Ms. Shinde, on instructions, submitted that there are no antecedents against the Applicant.

6. Perusal of the record shows that the incident in question took place on 27th May 2023, F.I.R. was lodged on 27th May 2023 and the Applicant was arrested on 28th May 2023. It is an admitted position that investigation has been completed and that Charge-sheet has been filed on 23rd August 2023. As per the Charge-sheet, there are few witnesses proposed to be examined by the prosecution. Till date, there is no progress in the trial and even the charge is also not framed yet. Accordingly, the trial will take a considerably long time to conclude.

7. *Prima facie*, there is substance in the contention raised by Mr. Icham, learned Counsel for the Applicant that the incident in question took place on the spur of the moment. The Applicant has not been named as an assailant in the F.I.R. and no Test-Identification Parade has been conducted.

8. The Applicant is a student aged 20 years.

9. The Applicant does not have any criminal antecedents.

10. The Applicant does not appear to be at risk of flight.

11. Accordingly, the Applicant can be enlarged on bail by imposing

conditions.

12. In view thereof, the following order:-

ORDER

- (a) The Applicant- Abid Yusuf Khan be released on bail in connection with C.R. No.167 of 2023 registered with the Mundhwa Police Station, District – Pune on his furnishing PR. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall report to the Mundhwa Police Station, District-Pune twice in a week i.e. on Sunday and Wednesday of every week between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.
- (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 such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to the

Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]