



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.304 OF 2024**

Aman Faiyaz Hussain Bhusari

... Applicant

versus

The State of Maharashtra

... Respondent

Mr. Ashley Cusher for Applicant.

Mr. Y.M.Nakhwa, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 23 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant who is arraigned in C.R.No.156 of 2023 for the offences punishable under Section 307, 358, 323, 504, 506 of the Indian Penal Code and Section 4 read with Section 25 of the Arms Act, 1959, has preferred this application to enlarge him on bail.
3. The first informant had known the applicant as they are the residents of the same locality. The first informant had delivered a sum of Rs.50,000/- to the applicant as the latter had promised to secure a place for him in the weekly market. On 20 April 2023 the first informant demanded return of the money as he was in need of money to celebrate Id. The applicant allegedly abused and threatened to eliminate the first informant and left the said spot i.e. Kasai Mohalla Square. The applicant returned to the said spot armed with a sharp knife. The applicant allegedly unleashed

blows and stabbed the first informant in the chest. The applicant also charged on Rahim, friend of the first informant, who tried to save the first informant. The applicant had threatened the persons in the locality by brandishing knife.

4. Learned Counsel for the Applicant submitted that the incident had occurred at the spur of the moment. There was no pre-meditation. The first informant had abused the applicant and on account of the provocation the incident occurred.

5. Learned APP resisted the application. Attention of the Court was invited to the injury certificate which indicates that there were two stab injuries, first on the right lower abdomen and second on the left side of the chest. A CLW on left hand was also noticed. The medical Officer opined that the first two injuries were grievous and dangerous to life and the third one was also designated as grievous. It appears that the first informant was admitted in the hospital on 21 April 2023 and discharged on 24 April 2023.

6. In the face of the aforesaid material, I find it rather difficult to accede to the submission on behalf of the applicant. The sequence of events, as emerges from the record, indicates that there was an initial altercation; the applicant had abused and threatened the first informant with dire consequences and left the spot; after a while, the applicant allegedly returned to the spot where the first informant and his friend were standing, armed with a sharp weapon, and unleashed blows. Prima facie, it does

not appear that there was any sudden and grave provocation. On the contrary, the fact that the applicant left the spot after the initial altercation and returned armed with a weapon, points to pre-meditation.

7. As the first informant had sustained life threatening injuries and the applicant and the first informant are the residents of the same locality, the apprehension on the part of the prosecution cannot be said to be unfounded. I am, thus, not inclined to exercise the discretion in favour of the applicant.

8. Hence, the following order :

ORDER

(i) The Application stands rejected.

(ii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)