

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.551 OF 2024
WITH
INTERIM APPLICATION NO.748 OF 2024**

Chalala Murgesh Devendra @ Gopal
@ Chalala Kandaswami Devendra

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Khwaja Shaikh, for the Applicant.

Mr. Prashant Jadhav, APP, for the Respondent/State.

Mr. Abhay Dolas, for the Applicant in IA No. 748 of 2024.

Mr. Shekhar Pawar, PSI, Juhu police station.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 22, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant, who is arraigned in C.R. No. 422 of 2023 registered with Juhu police station for the offences punishable under sections 307, 504 and 506 of Indian Penal Code, 1860 seeks to be enlarged on bail.
3. Since a couple of years prior to alleged incident, the applicant developed relationship outside marriage with another lady residing in the same locality. As the marital discord between the applicant and first informant escalated, the applicant started to reside with the said lady. Often there were altercations over the said issue. On 17th July, 2023 the said lady and her son abused the first informant. She reported the matter to Juhu police station. On the same day, in

the evening the applicant started to abuse the first informant for reporting the matter to police. The applicant asked the first informant to take back the said report or leave the house in which she was residing along with their children. The first informant apprised her brother Krushna Devendra (the injured). When Krushna tried to intervene, the applicant initially assaulted the injured by means of fist and kick blows and later on whipped out a knife and stabbed it in chest. The injured sustained bleeding injury.

4. Mr. Shaikh, the learned counsel for the applicant, submitted that the applicant and the first informant have amicably resolved the dispute. The first informant and the injured have filed affidavit giving no objection to grant bail to the applicant. The learned counsel submitted that the incident had occurred in the spur of the moment and there was no pre-meditation.

5. Mr. Jadhav, the learned APP, resisted the prayer for bail. It was submitted that the applicant had assaulted the injured with intent to kill the injured as the blow was given on the chest.

6. I have perused the report under section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. Prima facie, there is material to show that the applicant has assaulted the injured by means of knife. The injury report issued by Dr. R.N. Cooper Municipal General Hospital, Juhu reveals that the

injured had sustained injury on anterior chest wall on 6th ICS. The medical officer designated the injury as “grievous”.

7. It appears that the genesis of the dispute was the marital discord between the applicant and the first informant. The cause for the marital discord was the applicant’s alleged relationship outside marriage. At the same time, the fact remains that only one blow was given by the applicant. It appears when the injured tried to intervene, the scuffle took place between the injured and the first informant. Since a single blow was given, the question as to whether the applicant intended to commit murder of the injured, would be a matter for adjudication at the trial.

8. Since the parties have amicably resolved the dispute, the first informant and injured have filed affidavits giving their no objection and the investigation is complete for all intent and purpose, further detention of the applicant does not seem warranted. I am, therefore, inclined to exercise discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant be released on bail in C.R. No. 422 of 2023 registered with Juhu police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant shall mark his presence at Juhu police station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.

4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

5] 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.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] 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.

8] Application disposed.

9] In view of disposal of the application, the Interim Application stands disposed of.

(N. J. JAMADAR, J.)