



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2298 OF 2023**

Waris Anees Baig ... Applicant
versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.542 OF 2024
IN
BAIL APPLICATION NO.2298 OF 2023

Alhan Ahsan Qurashi ... Applicant/Intervener
and
Waris Anees Baig ... Applicant
versus
The State of Maharashtra ... Respondent

Ms. Sana Raees Khan with Mr. Aditya Parmar, Mr. Abhijeet Singh, Mr. Onkar, for Applicant.

Mr. S.R.Agarkar, APP for State.

Mr. Prashant Parab, for Intervener.

PSI A.T.Shirke, Nagpada Police Station present.

**CORAM: N.J.JAMADAR, J.
DATE : 21 FEBRUARY 2024**

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant who is arraigned in C.R.No.92 of 2023 registered with Nagpada Police Station for the offences punishable under Sections 120B, 302, 307, 363, 323, 504, 506, 141, 142, 143, 145, 146, 147, 149 of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. On 17 January 2023 at about 9.30 p.m., in front of Figo Building, wife,

children and brother of Ijaz Supariwala and other persons allegedly raked a quarrel with the first informant as he took side of Rehan @ Bappa with whom Supariwalas had a dispute. The first informant alleged, the wife and children of Ijaz Supariwala had caught hold of him and Faizan assaulted him by means of knife. The brother of the first informant Aamas (deceased) came to his rescue. The accused assaulted him as well. Co-accused Faizan gave blows by means of knife. The deceased fell down on the ground with bleeding injuries. The first informant further alleged, co-accused Sharique Qureshi volunteered to take him to J.J.Hospital on a motorcycle. However, co-accused Sharique took him to Arab Galli, Nagpada where Ijaz Supariwala accosted him and assaulted him by means of chopper. Eventually, Aamas Qureshi succumbed to the injuries.

4. Learned Counsel for the Applicant submitted that the applicant was not named in the FIR. The applicant has been subsequently roped in on the basis of the statements of the witnesses which came to be recorded after two days of the occurrence. Even in the said statements, the role of assault by means of fist and kick blows only has been attributed to the applicant. The applicant is a young boy. He has been in custody since 18 January 2023. Therefore, the applicant deserves to be released on bail.

5. Learned APP countered the submissions on behalf of the Applicant. It was urged that in the statements of the witnesses, clear role of assault has been

attributed to the applicant. The mere fact that the applicant was not named in the FIR, therefore, does not entitle the applicant to bail.

6. Learned Counsel for the Intervener also resisted the prayer for bail. It was submitted that the applicant is brother in law of the principal accused. The applicant had not only assaulted the deceased but also exhorted the principal assailant to assault the first informant and threatened the persons who tried to come to the rescue of the deceased. Therefore, the applicant does not deserve to be enlarged on bail.

7. I have perused the report under Section 173 of the Code and the documents annexed with it. Evidently, the first informant had not named the applicant as one of the persons who had accompanied the wife and children of Ijaz Supariwala. Indeed, the first informant had stated that they were accompanied by few other persons. However, the applicant was not named. In the FIR, prima facie, it appears that the role of catching hold of the deceased has been attributed to the wife, sons and daughter of Ijaz Supariwala. Thereupon, the assailant Faizan allegedly gave blows by means of knife.

8. In the statements of witnesses, recorded on 19 October 2023, the applicant was named as one of the relatives of Ijaz. In addition to the named accused, including the applicant, 5-10 other persons allegedly assaulted the deceased by means of fist and kick blows. It was further alleged that the applicant also restrained the

persons from coming to the rescue of the first informant by making aggressive gestures. The statements of witnesses, prima facie, indicate that the role attributed to the applicant is that of assault by means of fist and kick blows. Allegedly apart from the named accused, 5-10 persons assaulted the deceased by means of fist and kick blows.

9. In the circumstances, having regard to the fact that the applicant was not initially named in the FIR and even in the statement of witnesses, the role of assault by means of fist and kick blows only has been attributed to the applicant, a prima facie case for grant of bail is made out.

9. Moreover, the investigation is complete, chargesheet has been lodged and the applicant has been in custody for more than year. Thus, these reasons which weighed with this Court in releasing the co-accused Sharique on bail, also govern the claim of the applicant. I am, therefore, inclined to allow the application.

10. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Waris Anees Baig be released on bail in C.R.No.92 of 2023 registered with Nagpada Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at Nagpada Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of two years or till the conclusion of the trial whichever is earlier.

(iv) The applicant shall stay away from the limits of the Mumbai City for a period of two years or till the framing of the charge, whichever is earlier, except for the purpose of attending the police station or the proceedings before the Court.

(v) The applicant shall not tamper with the prosecution evidence. 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.

(vi) On being released on bail, 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.

(vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(viii) 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.

(ix) Interim Application No.542 of 2024 also stands disposed.

(N.J.JAMADAR, J.)