



Sayali Upasani

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

BAIL APPLICATION NO. 630 OF 2023

Vishal Babulal Jain	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Maitrayee A. Gadhave, for Applicant.

Mrs. Geeta P. Mulekar, APP for State/Respondent.

Mr. Sunil Datta Gamane, PSI, Amboli Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 8th FEBRUARY, 2024

PC:-

- 1) Heard the learned Counsel for the applicant and the learned APP for the State.
- 2) This application is preferred for bail in the Sessions Case No. 70 of 2021, arising out of CR No. 409 of 2020 registered with Amboli police station, for the offences punishable under Sections 307, 326 and 506 (2) of the Indian Penal Code, 1860 ("the Penal Code") and Section 37 (1) read with Section 135 of the Maharashtra Police Act, 1951.

3) The first informant runs a stationery shop under the name and style "Stone Paper Scissor". On 6th August, 2020, the applicant allegedly took away Earbuds of Estron Company without making payment. On 13th August, 2020, the applicant again visited the first informant's shop. When he was questioned about Earbuds, the applicant tried to flee away. The first informant and his cousin Shreyas Shah chased the applicant and accosted him near J.P. Road. When the first informant and his cousin tried to restrain the applicant, he allegedly assaulted Shreyas by means of a Cutter. When the first informant went to the rescue of Shreyas, the first informant was also assaulted by the applicant.

4) The learned Counsel for the applicant submitted that the applicant is in custody since 13th August, 2020. The first informant has suppressed the genesis of the occurrence. The incident had occurred at the spur of the moment as the applicant was falsely accused of having committed the theft.

5) The learned APP resisted the prayer for bail.

6) I have perused the injury certificate of the first informant and Shreyas. It seems that Shreyas had suffered simple injuries. The first informant had suffered a grievous hurt on the left palm. It does not appear that the applicant had given a blow by means

of Cutter on the vital parts of the body of the first informant. The injury on the neck of Shreyas also appeared to be simple. In the circumstances, whether an offence punishable under Section 307 of the Indian Penal Code can be said to have been made out would be a matter for adjudication at the trial.

7) In any event, the applicant has been in custody since 13th August, 2020. It is unlikely that the trial can be concluded within a reasonable period. The applicant appears to have roots in society.

8) I am, therefore, inclined to exercise the discretion in favour of the applicant.

9) Hence, the following order:

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Vishal Babulal Jain be released on bail in the Sessions Case No. 70 of 2021, arising out of CR No. 409 of 2020 registered with Amboli police station, for the offences punishable under Sections 307, 326 and 506 (2) of the Indian Penal Code, 1860 and Section 37 (1) read with Section 135 of the Maharashtra Police Act, 1951, on furnishing a P.R. Bond in the sum of

Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at the concerned Police Station on the first Monday of every month between 10.00 am to 12.00 noon for a period of two years or till conclusion of trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of 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.

[N. J. JAMADAR, J.]