

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 981 OF 2024

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
KULKARNI
Date: 2024.03.19
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Joy Jessie Mendosa

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Abhishek Mishra, a/w Taukeer Siddique, for the
Applicant.

Mr. S. R. Aagarkar, APP for the State/Respondent.

PSI Pratibha Baban Pawar, Khar Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 18th MARCH, 2024

ORDER:-

1. Heard the learned Counsel for the parties.
2. This is an application for bail in CR No.931 of 2023 registered with Khar Police Station, Mumbai, for the offences punishable under Sections 307, 323, 504 and 506 of the Indian Penal Code, 1860 ("the Penal Code") and Section 142 of the Maharashtra Police Act, 1951.
3. On 20th November, 2023, the applicant allegedly raked up quarrel with Dhanush Arjun. The applicant started to assault Dhanush Arjun by means of fist blows. The first informant went to rescue of Dhanush Arjun. Thereupon, the applicant allegedly raked up quarrel with the first informant

over the relations between the applicant and sister of the first informant. The applicant pushed the first informant and picked up a glass from a nearby glass store and broke it and gave a blow by means of the glass shard on the stomach of the first informant.

4. The learned Counsel for the applicant submitted that the applicant has been falsely roped in as the first informant had a grudge against the applicant on account of the relationship between the applicant and the sister of the first informant. On the day of occurrence, there was a scuffle. In the said scuffle, in fact, the applicant was assaulted. There is discrepancy in the ocular account and the medical evidence. Therefore, the applicant deserves to be enlarged on bail.

5. In opposition to this, the learned APP submitted that the applicant had entered the area in breach of an externment order and committed a murderous assault upon the first informant and, therefore, the applicant does not deserve to be enlarged on bail.

6. As the gravamen of indictment against the applicant is that the applicant had picked up a glass from the nearby glass store and broke it and, thereafter, stabbed the first informant, the prosecution was directed to tender a copy of

medical examination certificate of the applicant. The medical examination certificate does not indicate that there was any injury on the palms and fingers of the applicant. Secondly, from the perusal of the injury certificate of the injured – first informant issued by K. B. Bhabha Municipal General Hospital, Bandra (West), it appears that the history of stab injury by 4 - 5 known persons with glass shard at about 10.00 pm was narrated.

7. As noted above, the prosecution alleges that the initial quarrel was between the applicant and Dhanush Arjun and the first informant had intervened with a view to rescue the Dhanush Arjun. Thus, it appears that more persons were involved in the said scuffle. *Prima facie* it appears that the genesis of the occurrence is not fully disclosed.

8. In view of the apparent discrepancy in the version as regards the number of assailants as well as the absence of the mark of injury on the hands of the applicant, when he allegedly assaulted the first informant by means of broken glass shard, a *prima facie* case for exercise of discretion is made out.

9. Hence, the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.931 of 2023 registered with Khar Police Station, Mumbai, on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (iii) The applicant shall mark his presence at Khar Police Station on the first Monday of every alternate month in between 10.00 am. to 12.00 noon for a period of three years or till the conclusion of the trial, whichever is earlier.
- (iv) The applicant shall not enter the limits of Khar Police Station for a period of three years except to attend the police station on the specified days.
- (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.

Application disposed.

[N. J. JAMADAR, J.]