



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1858 OF 2024**

Mangal Dayashankar Saroj	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Karim Pathan with Mr. Shane Illahi, for Applicant.
Mr. Prashant Jadhav, APP for State.
API Samadhan Magade, Bhoiwada Police Station, Bhiwandi, present.

CORAM: N.J.JAMADAR, J.

DATE : 29 APRIL 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.217 of 2022 registered with Bhoiwada Police Station, Bhiwandi, for the offences punishable under Sections 307 and 504 of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. On the night intervening 26 and 27 October 2022, the first informant Sujit Kanojiya and his friends were consuming 'Tadi', near Hotel Aligarh, Nalapar, Bhiwandi. The applicant and his friends were also sitting on the adjacent table and consuming 'Tadi'. As the applicant was shouting at his friends, an altercation ensued between the applicant and the first informant. After a while, the applicant and his friends came out of the hotel. The applicant allegedly again had an altercation with one of his friends and fisticuffs ensued. The first informant intervened. Thereupon, the applicant got enraged and assaulted the first informant by means of a knife as the

first informant was repeatedly interfering in the matters between the applicant and his friends.

4. Learned Counsel for the applicant submitted that the applicant had no intention to commit murder of the first informant. The incident had occurred in the spur of the moment. In fact, the first informant and his friends had assaulted the applicant and gave provocation to the applicant.

5. In opposition to this, learned APP resisted the prayer for bail. It was submitted that the applicant has antecedents. While he was on bail in connection with a prosecution for the offence under Section 302 of IPC, the applicant has committed the instant offence. Therefore, the applicant does not deserve to be enlarged on bail.

6. I have perused the allegations in the FIR and the statements of the eye witnesses to the occurrence. The allegation of assault by means of knife, prima facie, finds support in the injury certificate, which indicates that the first informant had sustained stab injury on left sided pneumothorax. The discharge card indicates that the applicant was discharged on 3 November 2022. Discharge card further records that there was history of assault by a sharp object by two known persons.

7. In any event, the fact that the applicant as well as the first informant had consumed 'Tadi' and it was a case of drunken brawl, cannot be lost sight of. The first informant alleged that the applicant assaulted him as he intervened in the quarrel between the applicant and one of his friends, for the second time. Prima facie, it does

not appear that there was any pre-mediation to cause grievous injury to the first informant.

8. As a single blow was given and in the backdrop of the circumstances of the case, the question as to whether the applicant intended to commit murder of the first informant or cause such bodily injury as is sufficient to cause death of the first informant, would be a matter for adjudication at the trial.

9. To take care of the apprehension on the part of the prosecution based on the antecedents of the applicant, I deem it appropriate to impose stringent conditions.

10. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Mangal Dayashankar Saroj be released on bail in C.R.No.217 of 2012 registered with Bhoiwada Police Station, Bhiwandi, 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 stay away from the limits of Bhiwandi Municipal Corporation for a period of three years or till the conclusion of the trial, except for marking his presence before Bhoiwada Police Station, Bhiwandi, on first Monday of every month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) 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.

(v) 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.

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

(vii) 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.)