

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2583 OF 2023

Nida Dhane Sayed ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Sharikh Khan a/w. Mr. Nadeem Ansari, for the Applicant.

Mr. Babu Holambe-Patil, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 07, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

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 17th 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

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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. At the outset, the learned counsel for the applicant submits that by an order dated 21st February, 2024 this Court has released Waris Baig, the co-accused, who was named in the supplementary statement and to whom even greater role was attributed by the witness Nadim Shaikh, on the basis of whose statement the applicant has been roped in. The applicant has not been named in the FIR. Even in the statement of witnesses Nadim Shaikh the applicant has been described as the lady who is a relative of Ijaz Supariwala.

5. While releasing the co-accused Waris Baig, this Court, has, inter alia observed as under:-

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.

6. The learned APP fairly submits that the applicant is similarly circumstanced and the aforesaid reasons would govern the claim of the applicant for bail as well. In addition, the applicant is a woman. I am, therefore, inclined to exercise the discretion in favour of the applicant as the principle of parity applies.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant be released on bail in C.R. No. 92 of 2023 registered with Nagpada 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 her presence at Nagpada police station on the first Monday of every alternate month in between 11 am to 1 pm till conclusion of the trial.

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 her 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.

Application disposed.

(N. J. JAMADAR, J.)