

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

CRIMINAL BAIL APPLICATION NO. 3205 OF 2023

Masook Alam Khan

....APPLICANT

V/S

The State Of Maharashtra & Anr.

....RESPONDENTS

Mr. Raees Khan for the Applicant

Mrs. G. P. Mulekar, APP for the Respondent-State.

Mr. Atmaram J. Kadam, PSI, Wadala T.T. Police Station present.

CORAM : N. J. JAMADAR, J.

DATE: 29th JANUARY, 2024

P.C.:

1. Heard the learned Counsel for the Applicant and the learned APP for the State.
2. This is an Application for bail in connection with CR No 523 of 2022 registered with Wadala T. T. Police Station, Mumbai, for the offences punishable u/s. 307, 323, 326, 504, 143, 147, 148, 149 and 34 of Indian Penal Code, 1860 ("the Penal Code")
3. The gravamen of indictment against the Applicant is that the Applicant was a member of an unlawful assembly and in prosecution of common object of the unlawful assembly, the first informant was assaulted by means of knife and iron rod.
4. Learned Counsel for the Applicant submitted that the role attributed to the Applicant is that of having assaulted the first informant by means of kick and fist blows. The investigation is complete.

Therefore, the Applicant be released on bail.

5. Learned APP resisted the prayer for bail. It was submitted that the Applicant came to arrested on 31st May, 2023. Since the Applicant had made himself scarce the Applicant does not deserve to be released on bail.

6. I have perused the FIR. *Prima facie*, the role of assault by means of weapon has been attributed to co-accused Asad and Amir. The Applicant allegedly assaulted the first informant by means of kick and fist blows. The injuries sustained by the first informant are *prima facie* attributable to the co-accused.

7. The Applicant is in custody since May, 2023. Investigation is complete for all intent and purpose. It is unlikely that the trial can be concluded within a reasonable period. Thus, having regard to the role of the Applicant and the period of incarceration, I am inclined to exercise the discretion in favour of the Applicant.

8. Hence the following order:

:: O R D E R ::

(i) Application stands allowed.

(ii) The Applicant be released on bail in CR No. 523 of 2022, registered with Wadala T. T. 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 attend Wadala T. T. Police Station, Mumbai, on the first Monday of every alternate month in between 10.00 am. to 12.00 noon for the period of three years or till conclusion of the trial, whichever is earlier.

(iv) The Applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

(v) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(vi) 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 stands disposed.

(N. J. JAMADAR, J.)