



PMB

29.ba.3499-23.doc

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

BAIL APPLICATION NO.3499 OF 2023

1. IBRAAR ISTEKHAR KHAN
2. EHRAAR @ KALLU ISTEKHAR KHAN ..APPLICANTS
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Ritesh Thobde a/w Adv. Zubi Ansari a/w Adv.
Changdev Shingade a/w Adv. Ankita Rai for the applicants.
Mr. S. A. Walve, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 28, 2024.

P.C. :

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

1. This is an application for bail in respect of the offence
punishable under Sections 302, 307, 143, 147, 148, 149,
324, 323, 504, 506 of the Indian Penal Code (hereafter
'IPC' for short) and under Section 135 of the Maharashtra
Police Act registered on 20.01.2023 vide C.R. No.37 of 2023
with Faujdar Chawadi Police Station, Solapur.

2. The applicants are the accused Nos.4 and 5. There
are in all five accused. The date of the incident is
19.01.2023.

3. The application is opposed by learned APP. Learned APP points out that the applicants were armed with iron rods. It is submitted that the applicants had come prepared to commit the offence. It is further submitted that the applicants are from Uttar Pradesh. There is every likelihood of the applicants absconding and they may not be available for trial.

4. The accused No.3-Dilshad Shamshad Khan approached this Court for bail. By an order dated 11.10.2023 in Bail Application No.2752 of 2023 accused No.3-Dilshad Shamshad Khan has been enlarged on bail. For convenience the order is reproduced which reads thus :-

"2. This is an application for bail in respect of the offence punishable under Sections 302, 307, 324, 326, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (hereafter 'IPC' for short) read with Section 135 of the Maharashtra Police Act, 195, registered on 19/1/2023 vide First Information Report (FIR) No.37/2023 with Faujdar Chawadi Police Station, Solapur.

3. The applicant is the accused no.3. There are in all five accused. The date of the incident is 19/1/2023. It is alleged that the accused assaulted the victim as well as his acquaintances over the dispute of Rs.8000/- which according to the accused the victim owed to one of the accused.

4. Learned APP while opposing the application for bail submitted that the accused had come prepared to commit the murder of the victim. My attention is invited to the

statement of the first informant which reflects an incident dated 18/1/2023 where threats were given by the accused about the consequence if the money is not returned.

5. The incident took place on 19/1/2023 at 3.30 p.m. The accused no.1 inflicted one stab blow on the chest of the deceased. The accused no.2 is also supposed to be the assailant. So far as the present applicant is concerned, who is accused no.3, the role attributed to him is giving fists and kicks blows to the injured witnesses. Prima facie, it does not seem that the applicant assaulted the deceased. No such role is attributed to him.

6. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. Considering the role of the applicant and the fact that the applicant is in custody from 20/1/2023 with no possibility of the trial concluding any time soon, there being no criminal antecedents reported against the applicant, in the facts and circumstances of the present case, the applicant can be enlarged on bail by imposing conditions."

5. So far as the present applicants are concerned, the role attributed to them is of having assaulted the complainant. The complainant suffered simple injuries. There is nothing on record to indicate that the applicants assaulted the deceased. The deceased was stabbed in the chest by accused No.1. The accused No.3 who was attributed the role of assaulting the deceased with fist and kick blows has been enlarged on bail. There are no criminal antecedents reported against the applicants. Though the applicants are from Uttar Pradesh, there is nothing on

record to indicate that they are a flight risk. It is submitted by learned counsel for the applicants that though their native is Uttar Pradesh but they have permanent residence in Navi Mumbai. The applicants are residing at the address mentioned in the cause title. The applicants were arrested on 20.01.2023 and are now in pre-trial custody for more than one year. The investigation is complete and the charge-sheet has been filed. The trial is not likely to conclude any time soon. Considering the role of the applicants, I am inclined to enlarge the applicants on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicants-Ibraar Istekhar Khan and Ehraar @ Kallu Istekhar Khan in connection with C.R. No.37 of 2023 registered with Faujdar Chawadi Police Station, Solapur, shall be released on bail on their furnishing P.R. Bond of Rs.25,000/- each with one or more sureties in the like amount.
- (c) The applicants shall attend the Investigating Officer of Faujdar Chawadi Police Station, Solapur, once in a month, every first Monday of the month

between 11.00 a.m. and 1.00 p.m. till trial concludes.

(d) The applicants 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. The applicants shall not tamper with evidence.

(e) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicants shall not enter the jurisdiction of Faujdar Chawadi Police Station, Solapur, after being released on bail and till further orders of the trial Court.

(g) The applicants shall attend the trial regularly. The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicants shall not leave the State of Maharashtra without permission of the trial Court till the trial is over.

6. The application is disposed of.

(M. S. KARNIK, J.)