



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO.3605 OF 2023**

Mujeeb Mansoor Momin

... Applicant

versus

The State of Maharashtra

... Respondent

Mr. Viral J. Bhanushali, for Applicant.

Mr. S.R.Aagarkar, APP for State.

Mr. Amol Suryawanshi, PSI Nizampura Police Station present.

**CORAM: N.J.JAMADAR, J.**

**DATE : 13 MARCH 2024**

**P.C.**

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.222 of 2023 registered with Nizampura Police Station, Thane, for the offences punishable under Sections 307, 326, 354, 324, 294, 323, 504, 506 read with Section 34 of the Indian Penal Code.
3. On 1 July 2023 the first informant had been to the house of her brother in law Mushir, along with her family members. At about 4.00 p.m, there was an altercation between Mansoor and Asma, co-accused, and the parents of the applicant over laying the tins on the terrace. The applicant and the co-accused allegedly abused and assaulted the first informant, her husband Mubashir and brother in law Mushir.

The applicant has allegedly given a blow by means of iron rod on the head of the injured Mushir. Co-accused also assaulted and abused the first informant and her relatives. Co-accused Mansoor had allegedly outraged the modesty of the first informant.

4. Learned Counsel for the Applicant submitted that initially the offence punishable under Section 324 IPC only was arrayed against the applicant. Subsequently, after obtaining injury certificate from a private hospital, offences punishable under Sections 307 and 326 have been added. There is no prima facie case to invoke the provisions contained in Sections 307 and 326 of IPC.

5. In opposition to this, learned APP invited attention of the Court to the statements of the witnesses who have consistently stated that the applicant assaulted Mushir by means of an iron rod and the injury certificate issued by Heal Life Multi Specialty Hospital, clearly records the grievous nature of the injury suffered by Mushir. It was further submitted that the applicant has antecedents. Chapter proceeding has been initiated against the applicant. Therefore, the applicant does not deserve to be released on bail.

6. I have perused the allegations in the FIR as well as the statements of injured Mushir and other witnesses. Prima facie, it appears that an altercation took place over the dispute between the parties regarding laying of tin. The role attributed to the applicant is that of giving a blow by means of iron rod on the head of injured

Muhir. Injury certificate issued by Indira Gandhi Memorial Hospital, Bhiwandi, records that the injured Mushir had sustained CLW on frontal occipital region and right forearm. The injuries were designated simple. In the injury certificate issued by Heal Life Hospital, it has been noted that the injured Mushir has sustained grievous injury in frontal occipital and the CT Scan revealed that there was subdural hematoma with generalized cerebral oedema along with mid frontal occipital convexity.

7. In view of the apparent inconsistency in the injury certificates, the question as to whether the offence under Section 326 is prima facie made out, would be a matter for adjudication at the trial. As noted above, the genesis of the offences is in the dispute between the parties over the proprietary title to possession of the premises.

8. In the circumstances, at this stage, when the investigation is complete and the chargesheet has been lodged and the applicant has been in custody since 2 July 2023, further detention of the applicant does not seem to be warranted. Apprehension on the part of the prosecution, based on the antecedents of the applicant, can be taken care of by imposing stringent conditions.

9. Hence, the following order :

#### ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Mujeeb Mansoor Momin be released on bail in

C.R.No.222 of 2023 registered with Nimzapura Police Station 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 not enter the limits of Nizampura Police Station for a period of three years or till the conclusion of the trial, whichever is earlier, except marking his presence at the said Police Station 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 co-accused, and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

**( N.J.JAMADAR, J. )**