



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3706 OF 2023

Umesh Subhash Rajbhar

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. S. B. Bhatagunaki, Advocate for the Applicant.

Mr. Shriram S. Chaudhari, APP for the Respondent-State.

Mr. Aayush Kedia a/w. Ms. Diksha Ramnani h/f. Mr. H. S. Venegavkar, Advocates for the Respondent-UT.

CORAM: MADHAV J. JAMDAR, J.

DATED : 4th MARCH 2024

PC:-

1. Heard Mr. Bhatagunaki, learned Counsel appearing for the Applicant, Mr. Chaudhari, learned APP appearing for the Respondent No.1 and Mr. Dedia, learned Counsel appearing for the Respondent No.2.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	32 of 2023
2.	Date of Registration of F.I.R.	02/04/2023

3.	Name of Police Station	Nani Daman Police Station, Daman
4.	Section/s invoked	307, 143, 149, 352 r/w. 34 of the I.P.C., 1860
5.	Date of Incident	01/04/2023
6.	Date of Arrest	12 th May 2023
7.	Date of filing of Charge-sheet	08/08/2023

3. The prosecution case as contained in the F.I.R. in Hindi language is translated in the Application for bail. The same reads as under:-

“Kirti Jagdish Parmar gave his report at government hospital on 02/04/2023. That on 01/04/2023 at about 22:20 hours Mitesh I. Patel informed him on phone that he had argument with his friend Praful Patel earlier. With reference to said matter he called with his friend at Ishwar Dhaba in lane opposite to Starbar for discussion. Thereafter informant and his friend went to said place where Mitesh, Umesh, Milan @ Milu, Fulwa and three unknown persons were present. Upon reaching there informant approach Mitesh Patel and told that he was brought his friend Praful and he apologise for mistake committed by him. Mitesh told that only apology is not sufficient and Praful should apologise by bent down on his feet. The informant told his friend to do so accordingly Praful apologised by bent down in the foot of Mitesh. But Mitesh wanted to make video and take photo of the same to which informant denied. Thereafter Mitesh instructed informant to leave from there and told that he is going to beat Praful. Thereafter Mitesh and his

friend namely Umesh, Milan @ Milu, Fulwa and three other unknown persons went to their black colour vehicle bearing Thar bearing registration no. GJ-15-CL-5552 and there were Knife, PVC strong pipe and stones by which they started assaulting informant and his younger brother Girish Parmar and friend Praful. They also broke all glasses of informants four wheeler car being I20 bearing registration no.GJ-15-CG-9457 by pelting stone on it. Mitesh inflicted injuries by knife over the body of informant. Thereafter Mitesh and his friend assaulted informant on his legs, Assaulted younger of informant Girish Parmar and Praful. Thereafter said persons eloped from the spot in their Thar, Swift and two wheeler moped.”

4. Mr. Bhatagunaki, learned Counsel appearing for the Applicant submitted that investigation is complete and Charge-sheet is already filed. He submitted that there are total four Accused. Accused No.3 has been granted bail by the learned Trial Court. The present Applicant is the Accused No.2. He submitted that the motive is mainly attributed to Accused No.4 and as per the prosecution case, causing grievous injury is attributed to the Accused No.4. He submitted that the Applicant is a young man aged 23 years and that he will abide by all bail conditions. He submits that accordingly, the Applicant be released on bail.

5. Learned Counsel appearing for the Respondent No.2 submitted that although the main motive is attributed to the

Accused No.4, the present Applicant i.e. Accused No.2 participated in the assault on victims. He submitted that the Applicant has used a knife and therefore Bail Application be rejected.

6. Perusal of the record shows that date of incident in question is 1st April 2023, F.I.R. was lodged on 2nd April 2023 and the Applicant was arrested on 12th May 2023. Charge-sheet was filed on 8th August 2023. Thus, the investigation is complete. The F.I.R. itself shows that the Accused No.4-Mitesh inflicted the injuries with a knife. The statement of the victim-Girishbhai Parmar shows that the present Applicant assaulted the said victim with a knife. However, the Applicant assaulted the victim by blunt side of the blade. In any case, the injury on said victim's body are not severe in nature. There are 3 victims of the incident. The first victim is Kirtibhai and he has been grievously injured and as per the prosecution case, the same is at the instance of the Accused No.4. As far as other witness i.e. Girishbhai and Prafulbhai are concerned, the injuries are not grievous in nature. The present Applicant is responsible for the injuries of Girishbhai which are not grievous.

7. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.
8. There are no criminal antecedents against the present Applicant.
9. The Applicant does not appear to be at risk of flight.
10. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant- Umesh Subhash Rajbhar be released on bail in connection with C. R. No.32 of 2023 registered with the Nani Daman Police Station, Daman on his furnishing P. R. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter Vapi City, Valsad District after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial.

- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Nani Daman Police Station, Daman on the first Monday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.
- (e) 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 such a person from disclosing the facts to the Court or to any Police personnel.
- (f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The

Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

11. The Bail Application is disposed of accordingly.

12. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its merits and uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]