

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3847 OF 2023

Firoz Salahuddin Shaikh ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Salman Khan, for the Applicant.

Ms. Supriya Kak, APP, for the Respondent/State.

Mr. Sarjerao Patil, API, Shanti Nagar police station.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 17, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant, who is arraigned in C.R. No. 725 of 2022 registered with Shanti Nagar police station for the offences punishable under sections 307, 326, 324, 323, 504 and 506 read with 34 of Indian Penal Code, 1860, seeks to be enlarged on bail.
3. The applicant had allegedly assaulted Nehal Ansari which resulted in the arrest of the applicant. Nehal is the friend of the first informant.
4. On 26th November, 2022 the applicant, Mohd. Saijad (accused No. 1) and Samshar Shaikh (accused No. 2) raked up a quarrel with the first informant. The applicant and accused No. 1 were armed with iron rod and accused No. 2 was armed with a stick. The applicant assaulted the first informant by means of iron rod on the head. The co-accused gave blows on the back of the first informant.

The first informant fell down. He sustained bleeding injuries. When persons attempted to rescue the first informant. The applicant and the co-accused threatened them.

5. Mr. Khan, the learned counsel for the applicant, submitted that accused Nos. 1 and 2, to whom more or less identical role has been attributed have been released on bail. Initially allegations were of commission of the offence punishable under section 326 of the Penal Code only. Later on, by recording supplementary statement an offence punishable under section 307 came to be added. An endeavour was made to urge that in the injury certificate, issued by a private hospital, an exaggerated account of the injury suffered by the applicant is furnished.

6. As against this, Ms. Kak, the learned APP, submitted that the injury certificate of the first informant issued by Indira Gandhi Memorial Hospital, Bhiwandi also records the very same injuries that were found on the person of the first informant at the private hospital. It was submitted that apart from the first informant there are eye witnesses who have stated about the assault perpetrated by applicant and the co-accused. The applicant has antecedents. Therefore, the applicant does not deserve to be enlarged on bail.

7. I have perused the injury certificate dated 3rd February, 2023 issued by Umneed Hospital, Bhiwandi. Prima facie, it appears that

the first informant has sustained two CLWs on scalp and a fracture of the left fibia. The injury certificate prima facie supports the version of the first informant and the witnesses that the applicant and the co-accused had assaulted the first informant by means of respective weapons. However, the grievous injury prima facie appears to be attributable to the assault perpetrated by accused Nos. 1 and 2, who have been released on bail.

8. In any event, the applicant has been in custody since 28th November, 2022. Investigation is complete for all intent and purpose. It does not appear that injuries had escalated. Further detention of the applicant, therefore, does not seem warranted.

9. The apprehension on the part of the prosecution, based on the antecedents of the applicant, can be taken care of by imposing conditions. I am, therefore, impelled to allow the application.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Firoz Salahuddin Shaikh be released on bail in C.R. No. 725 of 2022 registered with Shanti Nagar 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 his presence at Shanti Nagar police

station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.

4] Save and except attending the police station, the applicant shall not enter the limits of Bhiwandi for a period of three years, or till the conclusion of trial, whichever is earlier.

5] 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.

6] 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.

7] The applicant shall regularly attend the proceedings before the jurisdictional Court.

8] 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.)