

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.4107 OF 2023
WITH
CRIMINAL APPLICATION NO. 9 OF 2024**

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Date: 2024.01.20
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Abdul Razzak Abdul Kayyum Khan

...Applicant

vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Syed Ejaz Abbas Naqvi, for the Applicant.

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

Ms. Ruchi Pawar i/b. Ms. Pranothi Pawar, for the Intervener.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 18, 2024

P.C.:

1. Not on board. Mentioned by way of praecipe. Taken on production board.

2. Heard the learned counsel for the applicant and the learned APP for the State.

3. The applicant who is arraigned in C.R. No. 832 of 2023 registered with Kandivali police station for the offences punishable under sections 326 and 504 read with 34 of the Indian Penal Code, 1860 seeks to be enlarged on bail.

4. The first informant lodged a report with the allegations that Tarikunisa is the wife of his brother Firoz Khan. Taufiq is their

younger brother. There have been disputes between Tarikunisa and Taufiq. On 15th November, 2023 Taufiq has lodged NC against Tarikunisa.

5. On the day of occurrence, at about 9.30 am, while the first informant was returning home, Taufiq informed him that the co-accused Abdul Hak, Kayyum and their sons had assaulted the first informant's father. When the first informant went to see what had happened, the applicant and the co-accused Rehman Khan, Farzan Khan and Anas Khan started abusing and assaulting him. They were allegedly armed with bomboo sticks, iron rod and bat. The applicant allegedly assaulted the first informant by means of bamboo stick on head. The first informant sustained bleeding injuries. The father of the first informant was also assaulted.

6. The learned counsel for the applicant submitted that the applicant is 18 years old boy. The applicant is a student of B.Voc (Radiology and Medical Imaging Technology). His examination is underway. Out of 4 papers he has already lost 2 papers. The incident had occurred at the spur of moment. On account of enmity between the parties, the applicant has been falsely roped in.

7. The learned counsel for the intervener resisted the prayer for bail. It was submitted that a specific role has been attributed to the applicant.

8. I have perused the first information report, injury certificate and medical papers of the first informant and his father.

9. The genesis of the offence seems to be in the dispute between Tarikunisa and Taufiq. It appears that the parties are closely related. An altercation ensued leading to a fight.

10. As far as the role attributed to the applicant of assault by means of bamboo stick on the head of the first informant, prima facie, it appears that the injury is attributable to a different type of weapon.

11. In any event, the applicant has been in custody since 26th November, 2023. The investigation seems to have reached on advanced stage. At this stage, further detention of the applicant, especially having regard to the age of the applicant and the fact that the applicant is a student, does not seem to be warranted.

12. The learned APP and the learned counsel for the intervener submitted that the co-accused has threatened the first informant and the intervener. In the circumstances, it may be appropriate to impose certain conditions.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant be released on bail in C.R. No.832 of 2023 registered with Kandivali police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant is permitted to furnish cash security for three weeks.

4] The applicant shall mark his presence at Kandivali police station on the first Monday of every alternate month in between 11 am to 1 pm till conclusion of the trial.

5] The applicant shall not enter the area of Jadhuwali Galli No. 1, Gandhi Nagar, Kandivali (w) till the conclusion of the trial.

6] 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.

7] 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.

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

9] 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.

10] Application disposed.

11] In view of above, Interim Application also stands disposed.

(N. J. JAMADAR, J.)