

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 872 OF 2024**

Jabbir Jamil Ahmed Siddiqui	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Ms. Swapna Pramod Kode for applicant.

Mr. Sagar R. Agarkar, APP for respondent-State.

Ms. Asha Kadam, API, Police Station Trombay, Brihanmumbai City.

**CORAM : MANISH PITALE, J.
DATE : 26th JUNE, 2024**

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is seeking to be enlarged on bail in connection with FIR No.0349 of 2023 dated 01.08.2023 registered at Police Station Trombay, Brihanmumbai City for offences under Sections 302, 307, 326, 324, 323, 504, 506(2), 141, 143, 147, 148 and 149 read with 34 of the Indian Penal Code, 1860 and Sections 37(1) and 135 of Maharashtra Police Act, 1951.

3. The learned counsel for the applicant submits that although the offences are of serious nature, the applicant was not initially named in the FIR as an accused person and even if the role ascribed to him, as per the statement of the informant and other witnesses, is to be taken into consideration no overt act has been alleged. It is not even alleged that the applicant assaulted the victims in any manner. At worst, it can be alleged that the applicant was present at the spot of the incident, which in itself

cannot be a ground to keep the applicant behind bars. It is further submitted that the applicant is a 19 year old boy, who intends to take admission in college and that the last date for filling of admission form is 15.07.2024. It is submitted that therefore, this Court may consider allowing the present application. In that context, reference is also made to closed circuit television (CCTV) footage which, according to the learned counsel for the applicant, would demonstrate that the applicant was not actively involved in the incident in question.

4. On the other hand, the learned APP has opposed the prayer. He submits that the narration of the incident by the informant, where he states that the two unknown persons acted in such a manner, so as to dissuade other persons to help the victim, when he was being brutally assaulted, is corroborated by the statement of the witness Kumar Arshad Subarati Shaikh recorded on 04.08.2023. It is submitted that the applicant was identified in Test Identification Parade, thereby showing his presence and involvement in the incident in question. It is submitted that a 19-year old boy, with the propensity of getting involved in such violent crime, does not deserve to be released on bail.

5. This Court has considered the material on record. The statement of the informant, leading to registration of the FIR, specifically attributes role to two unknown persons, who were not only present at the time of incident, but they also threatened the people present at the spot of the incident from helping the victim in any manner at the point in time when the other accused persons were brutally assaulting the victim by means of knife. It is submitted that the statement of the aforementioned witness recorded on 04.08.2023, specifically named the applicant as one of the two persons, who

were present and dissuaded the people present at the spot of the incident from helping the victim. The narration of the incident as given by the informant, matches with the statement of the aforesaid witness recorded on 04.08.2023 and therefore, non-mentioning of the name of the applicant in the array of the accused persons in the FIR cannot inure to the benefit of the applicant. Apart from this, the applicant was identified in Test Identification Parade.

6. The presence and involvement of the applicant in the aforesaid manner is therefore, made out by the material on record. The offences in the present case are serious in nature, wherein one of the victims died and the others suffered serious injuries. The offence regarding unlawful assembly is also registered in the present case and hence, the presence of the applicant being *prima facie* established, indicates that the applicant does not deserve to be enlarged on bail.

7. The applicant being a young boy intending to pursue education, cannot be a ground for enlarging him on bail. He can avail the facilities for the undertrials to continue with his education. The CCTV footage and its relevance would be a matter for trial.

8. In view of the above, the application is dismissed.

9. Since the chargesheet is already filed, the trial court is directed to frame charges within six weeks from today.

10. The trial is expedited.

(MANISH PITALE, J)