

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 1795 OF 2024

SANTOSH
SUBHASH
KULKARNI

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Ravi Raichand Chaudhari ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Kunal Jha, a/w Riya Sayyed, for the Applicant.
Mr. A. A. Naik, APP for the State.

CORAM: N. J. JAMADAR, J.
DATED: 11th JULY, 2024

ORDER:-

1. Heard the learned Counsel for the parties.
2. This is an application for bail in CR No.802 of 2023 registered with Kandivali Police Station, Mumbai, for the offences punishable under Sections 307, 324 and 504 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code") and Section 37(1) read with Section 135 of the Maharashtra Police Act, 1951.
3. At the outset, the learned Counsel for the applicant submits that the co-accused Nikhil Manjarekar has been granted bail by this Court. The case of the applicant is on a better footing as the applicant was not named in the FIR. Even the CCTV footages do not indicate that the applicant

had assaulted the injured. On the contrary, the injured had procured the scythe and assaulted the co-accused Nikhil Manjarekar.

4. While releasing the co-accused Nikhil Manjarekar, this Court had *inter alia* observed as under:

“8) Evidently, in respect of one and the same occurrence, two versions have been reported. The statements of Rahul and Datta reveal that, after the scuffle broke out, the injured Vaibhav had brought a scythe from the work site. Initially, the injured Vaibhav started to give blows by means of the scythe to the members of the accused party. Panchanama of the CCTV footage indicates that after the applicant fell down on the road, injured Vaibhav and witness Datta started to give blows by means of scythe and Bambu, respectively. After a while, the injured was assaulted by means of the same scythe.

9) In the aforesaid view of the matter, the question as to who was the aggressor warrants adjudication at the trial. Prima facie, the material does not indicate that the injuries suffered by Vaibhav can be attributed to the assault perpetrated by the applicant. The injury certificate of the applicant prima facie indicates that the counter version offered by the applicant competes in probability.”

5. The learned APP fairly submits that the principle of parity may apply. It was further submitted that the rest of the accused have also been released on bail by the Court of Session.

6. In view of the aforesaid submissions and the reasons which weighed with this Court in granting bail to Nikhil Manjarekar, applicant also deserves the exercise of discretion. I am, therefore, inclined to allow the application.

7. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.802 of 2023 registered with Kandivali Police Station, Mumbai, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (iii) The applicant shall mark his presence at the Kandivali Police Station on the first Monday of every alternate month in between 10.00 am. to 12.00 noon for the period of three years or till 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 trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]