

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2020 OF 2024**

Zaid Hussain Zakir Hussain Qureshi @ Sabir Qureshi ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Ganesh S. Patil a/w. Mr. Pravin Dabade and Mr. Akash Ahire for applicant.

Mr. Tanveer Khan, APP for respondent-State.

Mr. Santosh Kate, PI, Police Station Chunabhatti, District Mumbai.

CORAM : MANISH PITALE, J.

DATE : 27th JUNE, 2024

P.C. :

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

2. The present bail application is filed as the applicant was arrested on 19.10.2023 in connection with FIR No.0448 of 2023 dated 15.10.2023 registered at Police Station Chunabhatti, District Brihanmumbai City for offences under Sections 307, 326, 341, 323, 504, 506(2) read with 34 of the Indian Penal Code, 1860.

3. There are five accused persons in the present case. The incident is said to have occurred on 15.10.2023, when the accused persons, in the backdrop of a dispute pertaining to parking of vehicles, assaulted the informant (victim) by means of sharp weapons including a knife. This resulted in injuries to the informant and consequently, to registration of the aforesaid offences against the accused persons.

4. This Court is informed that three co-accused persons have been

already enlarged on bail. Reliance was placed on the orders passed in favour of the co-accused persons.

5. This Court finds that the Sessions Court granted bail to accused Almas Khan by order dated 19.12.2023 on the ground that no specific act of assault was alleged against him. On the same ground, bail was also granted on 23.11.2023 to co-accused person Nasir Husen.

6. Attention of this Court is specifically invited to the order dated 15.01.2024 passed in favour of co-accused person Sameer Abdul Aziz. It was submitted that even though the said accused person is alleged to have used knife to assault the victim, bail was granted.

7. In that light, it was highlighted that even as per the informant, the applicant had used a blade for assaulting on his back. Only a simple injury was found on the back of the informant as per injury report filed alongwith the application.

8. The learned APP submits that the applicant cannot claim bail on the ground of parity. He has criminal antecedents, for the reason that as many as four FIRs are registered in the very same police station for similar offences and in the year 2018, an order of externment was passed against him.

9. This Court has considered the rival submissions. The bail granted to the co-accused persons Almas Khan and Nasir Husen was based on a different consideration, as there was no allegation of assault against them. A perusal of the order passed in favour of Sameer Abdul Aziz shows that the Sessions Court has proceeded to grant him bail on the ground of parity, since other two co-accused persons were granted bail. It is also observed that no purpose would be served in keeping him behind bars, as the trial would take considerable period of time.

10. This Court is of the opinion that the Sessions Court appears to have erred in granting bail on the ground of parity, for the reason that there is indeed specific role concerning assault applicable to the co-accused Sameer Abdul Aziz. Considerable period of incarceration was also taken into account.

11. In this backdrop, the case of the present applicant has been considered on the basis of the material available on record. The statement of the informant leading to registration of FIR, shows that the only role attributed to the applicant was that he assaulted the informant on his back by means of a blade. The injury report shows a simple injury on the back of the informant. The chargesheet in the present case is already filed on 06.12.2024 and now the charges are to be framed.

12. The trial would indeed take some time for completion and considering the fact that the applicant has already remained behind bars since 19.10.2023, as also taking into consideration the role attributed to the applicant in the facts of the present case, this Court is inclined to allow the present application.

13. The apprehension expressed by the learned APP in the backdrop of the criminal antecedents of the applicant, can be addressed by imposing stringent conditions.

14. In view of the above, the bail application is allowed in following terms:

- (i) The applicant shall be released on bail in connection with FIR No.0448 of 2023 dated 15.10.2023 registered at Police Station Chunabhatti, District Brihanmumbai City for offences under Sections 307, 326, 341, 323, 504, 506(2) read with 34 of the Indian Penal Code, 1860, on

furnishing PR Bond of ₹ 50,000/- (Rupees Fifty Thousand only) and one or two sureties in the like amount to the satisfaction of the trial Court;

- (ii) the applicant shall not enter in the jurisdiction of Police Station Chunabhatti, during the pendency of the trial;
- (iii) the applicant shall report to Police Station Ghatkopar on second and fourth Monday of every month between 10:00 a.m. and 12:00 noon, during the pendency of trial;
- (iv) the applicant shall co-operate with the trial Court and attend the proceedings regularly before the concerned Court on every date, except when specifically exempted;
- (v) the applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;
- (vi) the applicant shall inform the Investigating Officer as well as the trial court about his contact number and residential address immediately upon release on bail and update the same in case of any change.

15. The applicant shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions are violated.

16. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

17. The application is disposed of.

(MANISH PITALE, J)