

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2031 OF 2024

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SUBHASH
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Ramaashish Barai Chaurasiya	vs.	...Applicant
The State of Maharashtra		...Respondent

Mr. Santosh Dubey a/w. Mr. Jitendra Tiwari, for the Applicant.
Mrs. Mahalaxmy Ganapathy, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.

DATE : JULY 18, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant who is arraigned in C.R. No. 399 of 2023 registered with Rabale MIDC police station, for the offences punishable under Sections 307, 326, 325, 324, 323, 504, 506, 143, 144, 145, 146, 147, 148 and 149 of the Indian Penal Code, 1860 ("the Penal Code") and Section 4 read with Section 25 of the Arms Act, 1959, has preferred this application to enlarge him on bail.
3. At the outset the learned counsel for the applicant submits that the co-accused Suraj Chaurasiya, to whom an identical role was attributed, has been released on bail. Therefore, the applicant also deserves to be enlarged on bail.
4. The learned APP resisted the prayer for bail. However, the learned APP fairly submitted that the principle of parity may apply.
5. While releasing the co-accused Suraj Chaurasiya, this Court

had observed, inter alia, as under:-

3] On 9th December, 2023, there was an altercation between Nikhil, the son of Babu Shinge, and Shahurukh, who were residing in the neighborhood of Akshay Sonkamble, the first informant. On 10th December, 2023 at about 7.30 p.m. the first informant noticed that Shahrukh and his friends Vinod Kamble, Babu Kamble, Aakash Chaurasiya, Naushad and Ganesh Kamble and others were assaulting Babu Shinge by fist and kick blows. The first informant went to the rescue of Babu Shinge. Thereupon Suraj, the applicant, Ramashish Chaurasiya and others started to beat the first informant by means of an iron rod. Deepak Chaurasiya and Babu Kamble assaulted the first informant by means of sword, on the head. As the first informant and others raised alarm, the applicant and co-accused fled away.

4] The learned Counsel for the applicant submitted that the applicant has been falsely roped in. Babu Shinge had not at all named the applicant as one of the members of the alleged unlawful assembly. In fact, in respect of the very same occurrence, a member of the accused party, namely, Umesh Kamble had lodged FIR bearing No.400 of 2023 for the offences punishable under Sections 143, 147, 326, 324, 323, 148 and 149 of the Penal Code and Section 4 read with Section 25 of the Arms Act, 1959. The first informant had sustained a simple injury. Therefore, the applicant deserves to be enlarged on bail.

5] I have perused the material on record. *Prima facie* it appears that the role of assault by means of sword has been attributed to co-accused Deepak Chaurasiya and Babu Kamble. It does not appear that the first informant and the injured had sustained injuries attributable to the assault perpetrated by the applicant. In any event, it appears that in respect of the one and the same occurrence, two versions were reported leading to registration of a case and cross case. In the circumstance of the case, the questions as to which of the party was the aggressor and whether

the applicant was also animated by the common object to commit murder of the first informant and the injured, would warrant adjudication at the trial.

6] Investigation is complete. Charge-sheet has been lodged. The applicant appears to be a 19 year old boy. I am, therefore, inclined to release the applicant on bail.

6. The applicant appears to be similarly circumstanced like Suraj Chaurasiya. There does not appear any qualitative difference between the role attributed to Suraj and the applicant. The allegations in the FIR indicate that the role of assault by means of sword has been attributed to Diapk Chaurasiya and Babu Kamble. In this view of the matter, I am inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant be released on bail in C.R. No.399 of 2023 registered with Rabale MIDC 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 Rabale MIDC police station on the first Monday of every alternate month between 11 am to 1 pm till conclusion of the trial.

4] 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.

5] 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.

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

7] 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.)