

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2046 OF 2024**

Zakir Mohammed Hussain Malwan ... Applicant
versus
The Sr. Inspector of Police and Anr. ... Respondents

Mr. Mateen Shaikh, for Applicant.
Mr. Tanveer G. Khan, APP for State.

**CORAM: N.J.JAMADAR, J.
DATE : 9 MAY 2024**

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.526 of 2024 registered with Bhiwandi Police Station for the offences punishable under Sections 395, 452, 427 r/w Section 34 of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. Hanzala Jamshed Ahmed Shaikh, first informant, lodged a report to the effect that on 13 April 2024 at about 11.30 p.m., an altercation ensued as Salman Shaikh, the injured, scolded the boys who were throwing the soil around. Sahil Jatu (A1) brother of one of the boys pushed Salman aside. Sahil (A1) called the other co-accused. The applicant and other co-accused allegedly assaulted the first informant, Salman, Umer and Zaib. As the first informant and his associates rushed to the office of Sufiyan Sheth to save themselves, the applicant and co-accused followed them. They ransacked the office and committed theft of cash of Rs.1,50,000/- which was
SSP (corrected order as per speaking to the Minutes of Order dated 14 May 2024)

lying in the drawer of the office table. The applicant and co-accused allegedly assaulted the first informant and other injured by means of iron rod.

4. Learned Counsel for the applicant submitted that the incident had occurred over a trivial issue of quarrel between two small boys. In respect of the very same occurrence, Sahil (A1) has lodged a report being FIR No.527 of 2024 for the offences punishable under Sections 395, 397 of IPC. The parties have amicably resolved the dispute. Hanzala Jamshed Ahmed Shaikh, first informant, has filed an affidavit giving consent to grant bail.

5. Perused the FIR and the material on record, as well as the affidavit of Hanzala Jamshed Ahmed Shaikh, first informant. It appears that in respect of the one and the same occurrence, two versions have been reported. It appeared to be a case of a free fight. The parties seem to have resolved the dispute. The first informant has given consent to grant bail to the applicant.

6. In the aforesaid view of the matter, further detention of the applicant does not seem warranted. I am, therefore, inclined to allow the application.

7. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Zakir Mohammed Hussain Malwan be released on bail in C.R.No.526 of 2024 registered with Bhiwandi Police Station on furnishing a PR

bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before Bhiwandi Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the 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.

(N.J.JAMADAR, J.)