

Arbaj Kaleem Sheikh @ Arbaj Kalil Shaikh Vs. State of Maharashtra	...	Applicant
	...	Respondent

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

CORAM : MANISH PITALE, J.
DATE : JULY 25, 2024

P.C. :

Heard Mr. Patil, learned counsel for the applicant and Mr. Agarkar, learned APP for the respondent-State.

2. The applicant has filed the present application seeking bail as he was arrested on 09.01.2024 in connection with FIR No.5 of 2024 dated 05.01.2024 registered with Tilaknagar Police Station, District - Brihanmumbai, for offences under Sections 307, 326, 504, 506(2) read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. Upon completion of investigation, charge-sheet was filed in March, 2024.

4. The learned counsel for the applicant submits that even if the statement leading to registration of the FIR and the entire contents of the charge-sheet are to be taken into consideration, there is no incriminating material against the applicant and there is nothing to connect the applicant with the incident in question.

5. It is further brought to the notice of this Court that the applicant was not named in the FIR as an accused person and further that, out of the four accused persons specifically named in the FIR, names of two persons have been dropped and now they are cited as witnesses by the

investigating authority. On this basis, he submitted that this Court may consider allowing the present application.

6. On the other hand, the learned APP invites attention of this Court to the contents of the summary of the incident given in the charge-sheet and he submits that the main accused person i.e. Deepak stated that the applicant was involved in the said incident.

7. This Court has perused the statement of the informant, leading to registration of the FIR. The informant has described the incident dated 05.01.2024 in detail, wherein he has ascribed specific role to all the four persons named in his statement. The informant has specifically stated that accused Deepak and Ankush were both armed with sickles and that they assaulted him on various parts of his body, including his head. It is further stated that Sunny and Aakash, who were initially named as accused persons along with Deepak and Ankush, blocked the way of the informant, further facilitating accused Deepak and Ankush to carry out the brutal assault.

8. It is significant to note that in the aforesaid statement, nowhere has the informant taken the name of the applicant. The statements of witnesses, recorded during the course of investigation, also do not show that the applicant was named as a person either present at the spot of the incident or otherwise involved in the present case. Yet, in the summary of the incident recorded in the charge-sheet, only in one sentence, it is recorded that the aforesaid accused Deepak had taken the name of the applicant as the person involved in the present incident. There is substance in the contention raised on behalf of the applicant that there is hardly any material on record to link the applicant with the incident in question, and therefore, it cannot be said that the applicant is involved in the present case, even if the entire material placed on record along with the charge-sheet is to be taken into consideration.

9. This Court is convinced that the applicant has made out a strong *prima facie* case in his favour and therefore, the present application deserves to be allowed. Accordingly, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with FIR No.5 of 2024 dated 05.01.2024 registered with Tilaknagar Police Station, District - Brihanmumbai on furnishing P.R. Bond of Rs.15,000/- [Rupees Fifteen Thousand only] with one or two sureties in the like amount;
- (B) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;
- (C) The applicant shall co-operate with the proceedings before the trial Court;
- (D) Upon being released on bail, within two weeks, the applicant shall communicate the details of his contact number and residential address to the trial Court.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

(MANISH PITALE, J.)