

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

CRIMINAL BAIL APPLICATION NO. 2395 OF 2024

Heena Ejaj Supariwala

@ Heena Thakur

...Applicant

Versus

State Of Maharashtra

...Respondent

Mr. Shailesh Kharat for the Applicant.

Ms. Mahalaxmi Ganapathy, APP for the Respondent – State.

CORAM : N. J. JAMADAR, J.

DATE : 7th AUGUST 2024

Digitally signed
by Heena Thakur
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PC.:

1. Heard the learned Counsel for the Applicant and learned APP for State.

2. This is an application for bail in C.R. No. 92 of 2023 registered with Nagpada Police Station for the offence punishable under Sections 302, 307, 363, 120(B), 323, 504, 506, 141, 142, 143, 145, 146, 147, 148, 149 of the Indian Penal Code, 1860 read with Sections 4, 25 of the Indian Arms Act read with Sections 37(1), 135 of the Maharashtra Police Act.

3. On 17th January 2023 at about 9.30 p.m., in front of Figo Building the applicant, who is the wife of Ijaz Supariwala, her children, brothers and other persons allegedly raked a quarrel with

the first informant as he took the side of Rehan @ Bappa, with whom Supariwalas had a dispute. The first informant alleged, the applicant and children of Ijaz Supraiwala had caught hold of him and Faizan assaulted him by means of a knife. The brother of the first informant Aamas (deceased) came to his rescue. The accused assaulted him as well. Co-accused Faizan gave blows by means of a knife. The deceased fell down on the ground with bleeding injuries. The first informant further alleged, co-accused Sharique Qureshi volunteered to take him to J.J. Hospital on a motorcycle. However, co-accused Sharique took him to Arab Galli, Nagpada where Ijaz Supariwala accosted him and assaulted him by means of a chopper. Eventually, Aamas Qureshi succumbed to the injuries.

4. Mr. Kharat, the learned Counsel for the applicant submitted that co-accused Waris Anees Baig, Nida Dhane Sayed and Munaza Waris Baig have already been released on bail. The role attributed to the applicant is, by and large, similar to the co-accused, who have already been enlarged on bail, especially Munaza Waris Baig. Investigation is complete. The applicant has been in custody since 21st February 2023. Therefore, the applicant be enlarged on bail.

5. Ms. Ganapathy, the learned APP, resisted the prayer for bail. It was submitted that, the role attributed to the applicant cannot be

said to be similar to that of the co-accused, who have been released on bail. Inviting the attention of the Court to the allegations in the FIR and the statements of witnesses Nadim Hajaratali Shaikh and Baddreaalam @ Jugan Bismillah Khan, the learned APP submitted that the applicant had caught hold of the deceased and, thereafter, co-accused Faizan inflicted the blows by means of the knife.

6. I have perused the report under Section 173 of the Code of Criminal Procedure, and the documents annexed with it, especially the statements of Nadim Hajaratali Shaikh and Baddreaalam @ Jugan Bismillah Khan on which reliance was placed by the learned APP.

7. In the order dated 29th July 2024 in Bail Application No. 2836 of 2024 preferred by Munaza Waris Baig (the co-accused), this Court observed as under:-

7. The learned APP submitted that the role attributed to the applicant is by and large similar to that of Waris Baig and Nida Sayed and principle of parity may apply.

8. The applicant is a woman. The question as to whether the applicant also shared the common object of the unlawful assembly in prosecution of which the deceased was killed and the First Informant was assaulted would be a matter for adjudication at trial. Therefore, having regard to aforesaid reasons which weighed with this Court in releasing the co-accused on bail, I am inclined to exercise the discretion in favour of the applicant as the principle of parity applies.”

8. *Prima facie*, there are allegations against the applicant that she had caught hold of the deceased. Munaza Baig was also attributed the role of having caught hold of the deceased from behind. *Prima facie*, thus, there does not appear much qualitative difference between role attributed to the applicant and Munaza Baig.

9. From the perusal of the statements of Nadim Hajaratali Shaikh and Baddreaalam @ Jugan Bismillah Khan it appears that the assailant Faizan came at the scene of occurrence on scooter and prior to that, an altercation had already ensued and 5 to 10 members of the unlawful assembly had started to beat Aalhan Qureshi, the first informant.

10. In this context, the role attributed to the applicant is required to be appreciated. Thus, the question as to whether the applicant has also shared the common object of the unlawful assembly in prosecution of which the deceased was killed, would be a matter for adjudication at the trial.

11. The applicant is a woman. She has been in custody for one and half year. Thus, in the backdrop of the role attributed to the applicant, further detention of the applicant does not seem

warranted. I am, therefore, inclined to exercise discretion in favour of the applicant. Hence, the following Order:

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Heena Ejaj Supariwala @ Heena Thakur be released on bail in C.R.No. 92 of 2023 registered with Nagpada 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 her presence at Nagpada Police Station on the first Monday of every alternate month between 11 am to 1 pm for a period of two years or till the conclusion of the trial whichever is earlier.
- (iv) The applicant shall stay away from the limits of the Mumbai City for a period of two years or till the framing of the charge, whichever is earlier, except for the purpose of attending the police station or the proceedings before the Court.
- (v) 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.

(vi) On being released on bail, the applicant shall furnish her contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(viii) 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 co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)