

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2463 OF 2024**

Mohd. Waris Mohd. Majid Mandal @ Babu Bengali ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. S. M. Shoaib for applicant.

Mr. Bapu V. Holambe-Patil, APP for respondent-State.

Mr. Vilas Surve, PSI, Deonar Police Station, District Brihanmumbai City.

CORAM : MANISH PITALE, J.

DATE : 19th JULY, 2024

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is seeking bail as he was arrested on 26.10.2023 in connection with FIR No.1296 of 2023 of the same date at Police Station Deonar, District Brihanmumbai City for offences under Sections 307, 323, 504, 509 and 506(2) read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The statement of the informant leading to registration of FIR shows that on 26.10.2023, the applicant allegedly passed a lewd remark against the informant and when she confronted him, the mother of the applicant came to the spot and abused and assaulted the informant. Thereupon, the informant threatened the applicant and his mother that she would approach the police station, whereupon the applicant allegedly assaulted the informant

with a knife. It is alleged that the knife was intended to be used by the applicant to cause injury to the informant on her head, but when she raised her hand to obstruct the assault, she suffered injury on her fingers. As noted hereinabove, the applicant was arrested on the date of registration of FIR.

4. The learned counsel for the applicant submits that in the present case, ingredients of the offence under Section 307 of the IPC are not made out at all, for the reason that the informant suffered only one injury and that too, a simple injury on her fingers. This would show that the applicant never had the intention of causing death of the informant. It is further submitted that the applicant is behind bars since 26.10.2023 and since even the charge has not been framed, this Court may consider allowing the present application.

5. On the other hand, the learned APP has vehemently opposed the prayer made in the present application. He submitted that the narration of the incident clearly shows that the applicant intended to cause death of the informant, as he had raised the knife to hit the informant on her head, but for the fact that the informant obstructed the blow by her hand. It is specifically brought to the notice of this Court that the applicant has 14 criminal antecedents. He has been convicted in 5 cases involving serious offences, including offence under Section 392 of the IPC. It is further brought to the notice of this Court that the incident in question has occurred, when an order of externment was operating against the applicant issued in June 2023 for a period of 18 months. On this basis, it was submitted that the application deserves to be dismissed.

6. This Court has perused the material on record. The statement of the informant read with the statement of two eye-witnesses recorded during the

course of investigation, show that the applicant had used the knife to assault the informant on her head and that the informant blocked the assault by means of her hand, thereby suffering incised wound on her fingers. At this stage, it cannot be said that the ingredients of offence under Section 307 of the IPC are not made out.

7. Apart from this, it is significant that the applicant has number of cases registered against him for serious offences and in 5 such cases, he is convicted for offences, including offences under Section 392 and 506(2) of the IPC. Record also shows that on the date when the incident occurred, the applicant was facing an order of externment for a period of 18 months issued in June, 2023. The criminal antecedents of the applicant indicate that allowing him to come back in the society may lead to further such incidents.

8. Therefore, the application is dismissed. However, the trial court is directed to frame charges within eight weeks from today and thereafter, take necessary steps for expeditious completion of the trial.

(MANISH PITALE, J)

Priva Kambl