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

CRIMINAL BAIL APPLICATION NO.2820 OF 2024

Sohel Aslam Shaikh	..Applicant
Versus	
The State of Maharashtra	..Respondent

**WITH
INTERIM APPLICATION NO.2745 OF 2024
IN
CRIMINAL BAIL APPLICATION NO.2820 OF 2024**

Afsar Rashid Pathan	..Intervenor
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IN THE MATTER BETWEEN

Sohel Aslam Shaikh	..Applicant
Versus	
The State of Maharashtra	..Respondent

Ms. Seema Dighe i/by Priyal G. Sarda, for the Applicant.
Mr. Prashant P. Jadhav, APP for the Respondent/State.
Mr. Salman Pathan, (through VC) for the Intervenor.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th JULY, 2024

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1. The Applicant is seeking his release on bail in connection with C.R No.232 of 2024 registered with Indapur Police Station on 7th March, 2024 for the offences under Sections 143, 147, 148, 149, 307, 324 of IPC, under Sections 4 and 25 of the Arms Act and Section 135 of the Maharashtra Police Act.

2. Heard learned counsel for the Applicant, learned APP and learned counsel for the Respondent No.2.

3. The FIR is lodged by one Afsar Pathan. He has stated that he was residing with his family. His uncle Fakir Pathan was residing next to his house. In January, 2024, Fakir's younger son Shamir had some quarrel with one Wasim and therefore, there was dispute between the two groups. On 6th March, 2024, the informant and his sons along with the others had gone to a mosque. They were returning back at 08:30 p.m. At that time, nine accused including the present Applicant stopped them. They were carrying weapons like sword, sickle and iron rod. Wasim Shaikh tried to assault Shamir Pathan with a sickle. The informant tried to stop him. At that time, Wasim gave a blow of sickle on his head. It is alleged in the FIR that the present Applicant gave a blow with Gupti above left eye of Shamir Pathan. Thereafter, accused Faijan assaulted Nihal with a sword, thereby cutting his ear. All the others assaulted the informant, Shamir and Nihal with their weapons and then they ran away. On these allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant was arrested on 8th March, 2024. Since then, he is in custody. The investigation is over and the charge-sheet is already filed. He submitted that there are statements of seven eye witnesses including the injured eye witnesses. They have narrated a different version, in which they have not attributed any particular role to the

present Applicant. Even the first informant has given a supplementary statement, wherein he has corrected himself and attributed that particular overt act of assaulting Shamir, to the other accused—Parvez Shaikh. According to his supplementary statement, the other assault was caused by Faijan. She therefore submitted that considering the serious contradictions, the Applicant's role is extremely doubtful and therefore, he should be granted bail. In any case, the charge-sheet is already filed.

5. Learned counsel for the first informant as well as learned APP opposed these submissions. According to them, a specific overt act with a specific weapon is attributed to the present Applicant. There are corresponding injuries suffered by the injured, which are mentioned in the FIR. There are eight eye witnesses, who have stated about the presence of the Applicant at the spot with weapons like Gupti and iron rod. There is recovery of Gupti at his instance. Therefore, considering the nature of injuries, the Applicant may not be granted bail. Learned APP submitted that there are two antecedents against the present Applicant.

6. I have considered these submissions. As rightly submitted by the learned counsel for the Applicant, the incident is narrated in a different manner, as far as the Applicant is concerned, by the other eye witness. One eye witness Fakir Pathan has stated that he rushed to the spot on hearing the shouts. He saw that Faijan was assaulting his son Shamir with a stone on his head. In the

meantime, the Applicant came there carrying a Gupti and an iron rod. He was followed by Wasim Shaikh with sickle on his motorcycle. The other accused joined them. The accused Pervez Shaikh took the iron rod from the hands of the present Applicant and gave a blow on Shamir's neck. In the meantime, Wasim assaulted Nihal on his ear and the others assaulted the informant and the other victims. Similar are the statements of Ashfaq, Saddam, the injured Shamir, Nihal, Ranjit Jamdar and Chetan Ranpise. Even the informant's supplementary statement mentions that Faijan had assaulted Shamir with a stone on his head. The injury certificates show that Shamir had suffered two injuries, the first one was over the left eyebrow and the second injury was fracture of left frontal bone. Both the injuries were grievous injuries. The statements of the eye witnesses show that those injuries are attributed to another accused and not to the present Applicant. The injuries to Nihal were on the head. He had suffered five injuries and the informant had suffered one CLW. Thus, the statements of the eye witnesses are in consonance with the medical certificates. All these eye witnesses have not attributed that particular role to the present Applicant. Though, the first informant in his FIR has attributed the role of assaulting Shamir with Gupti above his eye to the present Applicant, in his supplementary statement he has not supported it. At the highest, it can be said that the Applicant was present there with weapons and hence was a member of the unlawful assembly. However, he is in custody since 8th March, 2024. Though, he had an

opportunity, he has not caused any injuries, according to the eye witnesses, except the first informant. He has changed his version in his supplementary statement. Considering all these aspects, the Applicant can be released on bail. Considering his antecedents, some conditions can be imposed on him. Hence, the following order.

ORDER

- I) The Applicant is directed to be released on bail on his executing PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount in connection with CR No.232 of 2024 registered at Indapur Police Station.
- II) The Applicant shall attend the concerned Police Station between 05:00 pm. to 06:00 p.m. on every Saturday for a period of one year from today.
- III) The Application is disposed of.
- IV) With disposal of this Application, the Interim Application for intervention does not survive and it is disposed of. In any case, I have heard the Learned Counsel for the intervenor as well.

(SARANG V. KOTWAL, J.)