

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

BAIL APPLICATION NO. 2836 OF 2024

Munaza Waris Baig. ...Applicant

Versus

State of Maharashtra. ...Respondents.

Ms. Ashwini Achari a/w. Ms. Alisha Parekh, B. Gada i/b. Mr. Taraq Sayed,
Advocate for Applicant.

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

CORAM : N. J. JAMADAR, J.
DATE : 29th JULY 2024.

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 read with Sections 4, 25 of the Indian Arms Act read with Sections 37(1), 135 of the Maharashtra Police Act.
3. On 17 January 2023 at about 9.30 p.m., in front of Figo Building, wife, children and brother of Ijaz Supariwala 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 wife and children of Ijaz Supariwala 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. At the outset, the learned Counsel for the Applicant submits that the applicant is entitled to bail on the ground of parity as the co-accused Waris Anees Baig and Nida Dhane Sayed have been granted bail by this Court by Orders dated 21st February 2024 and 7th March 2024, respectively. An endeavour is made to urge that the role attributed to the Applicant is comparatively of a lesser degree.

5. While releasing the co-accused Waris Baig on bail, in the order dated 21st February 2024, this Court had observed, *inter alia*, as under :

"7. I have perused the report under Section 173 of the Code and the documents annexed with it. Evidently, the first informant had not named the applicant as one of the persons who had accompanied the wife and children of Ijaz Supariwala. Indeed, the first informant had stated that they were accompanied by few other persons. However, the applicant was not named. In the FIR, *prima facie*, it appears that the role of catching hold of the deceased has been

attributed to the wife, sons and daughter of Ijaz Supariwala. Thereupon, the assailant Faizan allegedly gave blows by means of knife.

8. In the statements of witnesses, recorded on 19 October 2023, the applicant was named as one of the relatives of Ijaz. In addition to the named accused, including the applicant, 5-10 other persons allegedly assaulted the deceased by means of fist and kick blows. It was further alleged that the applicant also restrained the persons from coming to the rescue of the first informant by making aggressive gestures. The statements of witnesses, prima facie, indicate that the role attributed to the applicant is that of assault by means of fist and kick blows. Allegedly apart from the named accused, 5-10 persons assaulted the deceased by means of fist and kick blows.

9. In the circumstances, having regard to the fact that the applicant was not initially named in the FIR and even in the statement of witnesses, the role of assault by means of fist and kick blows only has been attributed to the applicant, a prima facie case for grant of bail is made out."

6. Noting the aforesaid observations, co-accused Nida Dhane Sayed was also enlarged on bail.

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.

9. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Munaza Waris Baig 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 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.

10. Application disposed.

(N. J. JAMADAR, J.)

ARUNA
SANDEEP
TALWALKAR

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