

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2857 OF 2024**

Aditya @ Nikhil Prabhakar Bhalerao	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. V. L. Singh for applicant.

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

Mr. Dnyaneshwar S. Sonawane, PSI, Deonar Police Station, Mumbai.

**CORAM : MANISH PITALE, J.
DATE : 09th SEPTEMBER, 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 13.11.2023 in connection with FIR of the same date, bearing No.1404 of 2023 registered at Police Station Deonar, Mumbai for offences under Section 307 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on the statement of the informant, who stated that on 12.11.2023, during the night, when the informant and his friends were bursting crackers, one of the fire crackers burst near the applicant and the co-accused person. This led to a quarrel and eventually, to the incident, wherein the informant and others were injured. It is alleged that the applicant caused injuries by means of a knife.

4. The learned counsel for the applicant submits that this is a case of cross-FIRs because FIR No.1422 of 2023 dated 16.11.2023 was registered at the very same police station at the behest of the applicant, wherein the informant in the present case i.e. Ganesh was arraigned as an accused alongwith others. It is further submitted that the genesis of the incident is identically stated in both the FIRs as the fire cracker burst near the applicant and the co-accused person, leading to the quarrel. It is submitted that the applicant has suffered incarceration for about 10 months. The alleged weapon of assault has been recovered and the injury certificate also shows only simple injuries, thereby belying the allegation about attempt to murder, made against the applicant. It is submitted that in such circumstances, this Court may consider allowing the present application.

5. On the other hand, the learned APP has opposed the present application. He submitted that the cross-FIR having been registered 4 days after the incident, can be said to be an after-thought and a counterblast. Attention of this Court is invited to the injury certificates showing the injuries suffered by the informant as well as other injured victims. It is submitted that the injuries are inflicted on vital parts of the body i.e. abdomen and neck. On this basis, it is submitted that allegation under Section 307 of the IPC is *prima facie* sustainable. It is further submitted that the weapon of assault i.e. the knife is recovered at the behest of the applicant and if the applicant is enlarged on bail, it may lead to further such incidents as the informant as well as the applicant are residents of the same neighbourhood.

6. This Court has considered the material on record, including the cross-FIR No. 1422 of 2023 dated 16.11.2023, registered at the behest of the applicant. A perusal of both the FIRs indicates that the genesis of the

incident is identically described. It appears that a fire cracker burst near the applicant and the co-accused person, as a result of which they were agitated and the quarrel ensued between the rival parties. The injury certificate pertaining to the informant shows injuries corresponding to the allegations made in the statement, leading to registration of FIR. The injuries being on the abdomen and neck of the informant, can be said to be on the vital parts of the body. But, the description of the injuries allegedly inflicted on the neck is “simple” injury, while the injury allegedly inflicted on the abdomen carries the remark “perusal surgical opinion”. It is not clear whether the injury on the abdomen is classified as simple or grievous injury.

7. It is an admitted position that the alleged weapon of assault i.e. the knife has already been recovered at the behest of the applicant. The registration of subsequent FIR at the behest of the applicant i.e. FIR No.1422 of 2023, resulted in registration of offences against the informant herein i.e. Ganesh and others for offences under Sections 324 and 504 read with Section 34 of the IPC. Although the said FIR is registered after about 4 days of the incident, the genesis of the incident has been described in an identical manner by the rival parties. This indicates that the bursting of fire crackers and one of the fire crackers bursting near the applicant and the co-accused, triggered the actual incident in which *prima facie*, both the parties have inflicted injuries on each other.

8. The applicant does not have any criminal antecedent and therefore, considering the fact that the applicant has suffered incarceration for about 10 months and chargesheet is already filed, this Court is inclined to allow the present application. The apprehension expressed by the learned APP can be addressed by imposing appropriate stringent conditions on the applicant.

9. In view of the above, the application is allowed in the following terms:
- (i) The applicant shall be released on bail in connection with FIR No.1404 of 2023 dated 13.11.2023 registered at Police Station Deonar, Mumbai, on furnishing PR Bond of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court;
 - (ii) The applicant shall not enter the jurisdiction of Deonar Police Station, during the pendency of the trial.
 - (iii) Upon release, within one week, the applicant shall inform the Investigating Officer as well as the trial court about his contact number and residential address and update the same in case of any change;
 - (iv) the applicant shall co-operate with the trial Court in completing the proceedings expeditiously and attend the proceedings before the trial Court on each and every date, unless specifically exempted, for the reasons to be recorded in writing;
 - (v) the applicant shall not tamper with the evidence of the prosecution in any manner. He shall not undertake any action that may influence the informant, witnesses and other persons concerned with the case.
10. The applicant shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions are violated.
11. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.
12. The application is disposed of.

(MANISH PITALE, J)