



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3057 OF 2024**

Amit Ramdiya Gechand
versus
The State of Maharashtra

... Applicant
... Respondent

Mohd. Kasim Alure, for Applicant.
Mr. A.A.Naik, APP for State.
PSI Sujata Yadav, BKC Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 28 AUGUST 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in Sessions Case No.195 of 2023 arising out of C.R.No.919 of 2022 registered with Bandra Kurla Complex Police Station for the offences punishable under Sections 307, 386, 506(2), 504 of Indian Penal Code and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.
3. The first informant is a fruit seller. On 26 October 2022, near Valmiki Nagar Bandra (E), the first informant sold a pomegranate to the applicant. When the first informant demanded the price, the applicant started to abuse the first informant, manhandled him and tried to snatch away the money from the pocket of the shirt of

the first informant. When the latter resisted, the applicant whipped out a knife and gave a blow near the neck of the first informant. The first informant sustained bleeding injury. He was shifted to hospital. After having treatment, the first informant approached the police station and lodged the report.

4. Learned Counsel for the Applicant submitted that the incident had occurred at the spur of the moment. The first informant had sustained a simple injury. The applicant has been in custody since 26 October 2022. It is unlikely that the trial can be concluded in a near future. Therefore, the applicant deserves to be enlarged on bail.

5. Learned APP resisted the prayer for bail. It was submitted that the first informant had sustained a life threatening injury. The applicant has antecedents. He was convicted in Sessions Case No.705 of 2014 for the offences punishable under Section 307, 506(2), 504 of IPC by a judgment and order dated 14 August 2015 and sentenced to undergo rigorous imprisonment for four years. Therefore, the applicant does not deserve to be enlarged on bail.

6. I have perused the report under Section 173 of the Code and

the documents annexed with it. The first informant had sustained an incised wound over right side of the neck. The medical certificate indicates that the injury was cleaned and sutured. The medical officer has designated the injury as simple. As the injury was caused on the vital part of the body, the submission on behalf of the applicant that the offence under Section 307 of IPC cannot be said to have been prima facie made out as the first informant had sustained a simple injury, cannot be accepted unreservedly.

7. Nonetheless, the question as to whether the offence would fall within the dragnet of Section 307 of IPC, would be a matter for adjudication at the trial upon evaluation of evidence. The fact that the applicant had given a single blow may also bear upon the determination.

8. The applicant has been in custody since 26 October 2022. The Court is informed that the charge has yet not been framed. Having regard to the large pendency of cases, it is unlikely that the trial can be concluded within a reasonable period.

9. There was an interval of time between the incident which resulted in the conviction of the applicant in Sessions Case No.705

of 2014 and the instant case. The Court is not informed that the applicant has been arraigned in any other case. In these circumstances, I am inclined to exercise discretion in favour of the applicant.

10. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Amit Ramdiya Gechand be released on bail in C.R.No.919 of 2022 registered with BKC Police Station, Mumbai 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 his presence before BKC Police Station, Mumbai on first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) 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.

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

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

(vii) 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 trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)