

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

BAIL APPLICATION NO. 3308 OF 2024

Rakesh Kamalnarayan Mishra ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Jitendra Gautam, a/w Poonam Pal, for the Applicant.
Mr. A. A. Naik, APP for the State.
PSI Mr. Jarande, Nirmal Nagar Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED : 22nd OCTOBER, 2024

PC:-

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with CR No.444 of 2023 registered with Nirmal Nagar Police Station, Mumbai, for the offences punishable under Sections 307, 323, 504 and 506 of the Indian Penal Code, 1860 ("the Penal Code"), Section 4 read with Section 27 of the Arms Act and Section 37(1) read with Section 135 of the Maharashtra Police Act, 1951.
3. On 5th August, 2023 there was an altercation between the applicant and Rajesh Sawant, the first informant. The latter had slapped the applicant. The dispute was resolved by the applicant's brother Mukesh.

4. The first informant alleged on 7th August, 2023 the applicant again raked up quarrel. While the first informant was leaving the spot to avoid the escalation of the quarrel, the applicant whipped out a knife and assaulted the first informant on the left shoulder, left rib and left leg. The first informant initially approached Nirmal Nagar Police Station and, thereafter, he was shifted to V. N. Desai Hospital.

5. The learned Counsel for the applicant submitted that in respect of the very same occurrence the applicant has lodged a report. In fact, the applicant had sustained injuries in the said occurrence. The first informant was the aggressor.

6. The learned APP resisted the prayer for bail. It was submitted that the FIR was lodged by the applicant to give a counterblast to the report lodged by the first informant, after the applicant came to be arrested. As the medical evidence supports the allegations in the FIR, the applicant does not deserve the relief of bail.

7. I have perused the report under Section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it. It appears that the genesis of the offences is in the animosity between the applicant and the first informant. A couple of days before the occurrence, the first informant had allegedly slapped

the applicant. The applicant has also lodged FIR in respect of the same incident. The injury certificate indicates that the applicant had sustained injury. The history of assault by means of sharp weapon was also narrated. In this backdrop, the question as to who was the aggressor would warrant adjudication at the trial.

8. From the perusal of the injury certificate of the first informant it appears that the first informant had sustained CLW on shoulder, left side abdomen and left gluteal region. *Prima facie* it does not appear that the first informant had sustained life threatening injuries. Whether the act would fall within the dragnet of the offence punishable under Section 307 of the Penal Code would also be a matter for trial.

9. The applicant has been in custody since 7th August, 2023. It is unlikely that the trial can be concluded within a reasonable period. I am, therefore, inclined to exercise discretion in favour of the applicant.

10. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.444 of 2023

registered with Nirmal Nagar Police Station, Mumbai, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or more sureties in the like amount.

- (iii) The applicant shall mark his presence at the Nirmal Nagar Police Station on the first Monday of every alternate month between 10.00 am. to 12.00 noon for the period of two years or till 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) Upon 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 co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]