

(This order is corrected as per speaking to minutes order dated 4th September 2024.)

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

BAIL APPLICATION NO. 552 OF 2024

Shridhar Charuddata Phadtare ... Applicant
Versus
The State of Maharashtra & Anr. ... Respondents

**WITH
INTERIM APPLICATION NO. 991 OF 2024
IN
BAIL APPLICATION NO. 552 OF 2024**

Madhav Mukund Phadtare ... Applicant
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Satish Muley a/w Mosin Naik for the Applicant.
Ms. Megha S. Bajoria APP for Respondent-State.
Mr. Satyavrat Joshi i/by Ms. Shivani Kondekar for Applicant in
IA/991/2024.
Ms. Priti Parkale, PSI, N. M. Joshi Marg Police Station.

**CORAM: MANISH PITALE, J.
DATE : 26th AUGUST 2024**

P.C. :

. Heard learned counsel for the applicant, learned APP for the respondent-State and learned counsel appearing for the intervenor/first informant.

2. The applicant is seeking bail, as he was arrested on 14th September 2023 in connection with FIR registered on the same date bearing No. 0529 of 2024 in N. M. Joshi Police Station,

Birhanmumbai, for offences 307, 506(2), 323 and 504 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The informant in the present case is the cousin of the applicant and he has stated that the victim i.e. his wife was assaulted by the applicant by a knife, resulting in serious injuries on her body. It is also alleged that the co-accused person i.e. the father of the applicant had assaulted the victim and the other injured person, by way of fists and kicks. The co-accused person was granted bail by this Court by order dated 1st December 2023 passed in Bail Application No. 3422 of 2023.

4. The learned counsel for the applicant fairly submitted that the applicant is not claiming parity with the co-accused person.

5. It is submitted that in the present case, the applicant has been languishing in jail since 14th September 2023. The investigation is completed and the charge-sheet is already filed. Since, recovery of the alleged weapon of assault is also made in the present case, no purpose would be served by keeping the applicant behind bars. It is submitted that there is remote possibility of the trial being completed within a reasonable period of time and in such circumstances, this Court may consider enlarging the applicant on bail.

6. The learned counsel for the applicant also referred to the *panchanama* of the CCTV, which forms part of the charge-sheet to

contend that the *panchanama* records that the applicant took something from the guard room and reached the place of the incident, without any reference to any knife. Yet, it is claimed that knife was recovered at the behest of the applicant on the basis of the memorandum executed under Section 27 of the Evidence Act. Reference was made to the injury certificate and it was submitted that injuries both simple and grievous were recorded, but the discharge summary indicated that the wound relatable to use of a weapon was hardly 2 cms by 3 cms in size. On this basis, it was claimed that this Court may consider allowing the present application.

7. On the other hand, the learned APP relied upon the injury certificate, as well as the discharge summary, to indicate the ferocity of the assault and the fact that the injuries were inflicted by a sharp weapon. It was brought to the notice of this Court that the weapon of assault i.e. knife was recovered at the behest of the applicant. It was submitted that the co-accused was granted bail because he was alleged to have assaulted by means of fists and kicks and also on the ground that the co-accused person is a senior citizen. The learned APP submitted that releasing the applicant on bail may adversely affect the trial, considering the relationship of the parties and the bitter animosity in the backdrop of which the incident took place.

8. The learned counsel appearing for the intervenor/first informant supported the submissions made by the learned APP

and he further submitted that discharge summary indicated the seriousness of the attack. It was brought to the notice of this Court that the victim being the sister-in-law of the applicant was assaulted in the aforesaid brutal manner and there was every possibility of the applicant influencing witnesses upon being released on bail.

9. This Court has considered the material on record, while considering the oral submissions. The statement of the informant is clear, as to the manner in which the victim has described the assault inflicted by the applicant by means of a knife. The statements of the other witnesses appear to describe the incident in a similar manner. The weapon of assault i.e. knife was recovered at the behest of the applicant.

10. The injury certificate shows various injuries, including abrasions on the face, neck and back of the victim, as also penetrating wound in her left breast. This is clearly a grievous injury suffered by the victim. The discharge summary indicates that blood clot had to be evacuated near the left intercostal artery and that there was indeed a penetrating wound on the left breast of the victim. In such a situation, this Court is unable to accept the contentions raised on behalf of the applicant that since the size of the internal wound was found to be 2cms by 3cms, it cannot be said to be a serious injury. In any case, the assault was clearly on a vital part of the body of the victim. The ferocity of the attack is evident from the injury certificate and the discharge summary

placed on record.

11. It is also relevant to note that in the statement of the informant, leading to registration of the FIR, it is recorded that after assaulting the victim in such a violent manner, the applicant allegedly threatened her that if she survives the said attack, he will further deal with her. *Prima facie*, this indicates bitter animosity between the applicant and the victim, as also the informant. In such a situation, the apprehension expressed by the learned APP and the learned counsel appearing for the first informant that releasing the applicant on bail may adversely affect the trial, is well founded.

12. Therefore, this Court is not inclined to entertain the present application and accordingly, it is dismissed.

13. The observations made in this order are limited for deciding this bail application.

14. The trial Court may expedite the proceedings.

15. In the light of the dismissal of the bail application, the Interim Application stands disposed of.

MANISH PITALE, J.