

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

**INTERIM APPLICATION NO.1615 OF 2024
IN
CRIMINAL APPEAL NO.482 OF 2024**

Rashid Abdul Majid Ansari Applicant

versus

State of Maharashtra Respondent

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- Mr. Shreerat Kamath a/w Puja Yadav, Advocate for Applicant.
- Mr. Prashant P. Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd JULY, 2024

P.C. :

1. This is an application for bail pending Appeal. The Applicant was the sole accused before the Additional Sessions Judge, Greater Mumbai, vide his Judgment and Order dated 16/09/2023, passed in Sessions Case No.182 of 2013. The learned Judge, vide his Judgment and Order dated 16/09/2023, convicted and sentenced the Applicant as follows :

- (i) The Applicant was convicted for commission of offence punishable u/s 326 of the Indian Penal

Code and was sentenced to suffer rigorous imprisonment for seven years and to pay a fine of Rs.5,000/- and in default of payment of fine to suffer rigorous imprisonment of six months.

- (ii) He was convicted for commission of offence punishable u/s 324 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.1,000/- and in default of payment of fine to suffer rigorous imprisonment of one month.
- (iii) He was convicted for commission of offence punishable u/s 394 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for seven years and to pay a fine of Rs.5,000/- and in default of payment of fine to suffer rigorous imprisonment of six months.
- (iv) He was convicted for commission of offence punishable u/s 397 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for seven years.

- (v) He was convicted for commission of offence punishable u/s 452 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default of payment of fine to suffer rigorous imprisonment of six months.
- (vi) He was convicted for commission of offence punishable u/s 4 and 25 of the Arms Act and was sentenced to suffer rigorous imprisonment for two years.
- (vii) The Applicant was acquitted from charges of offence punishable u/s 504 of the Indian Penal Code.
- (viii) All the substantive sentences were directed to run concurrently.

2. Heard Mr. Shreerat Kamath, learned counsel for the Applicant and Mr. Prashant P. Jadhav, learned APP for the State.

3. The prosecution case is that on 17/11/2012, the victim/informant Gulam Hussain was in his shop. One tanker

was parked in front of his shop because he had requested for supply of water. At that time, the Applicant came there and asked the informant to remove the tanker from that place. The informant sought some time but the Applicant got angry. He went inside the shop and brought a sword and hit it on the cash counter. He gave a blow with sword on the informant's head and took cash of Rs.11,000/- from the cash counter. In the meantime, the informant's father and brother came to save him. The Applicant assaulted them also.

4. Learned counsel for the Applicant submitted that the parties were knowing each other. The Applicant had no intention to commit robbery. But the incident occurred out of a quarrel, because the informant had not removed the tanker, which was obstructing the Applicant's access. Therefore, there was neither any intention to cause grievous hurt nor intention to commit robbery. The incident had occurred out of the quarrel. The allegations of taking away Rs.11,000/- is made only to give a serious colour to the offence. There is a recovery of Rs.2,000/-

at his instance, but that amount is a small amount and therefore such recovery from his house is not unusual.

5. Learned APP opposed these submissions. Learned APP relied on the evidence of the informant and the other two victims, as well as the medical evidence to oppose these submissions.
6. The medical evidence shows that the informant had suffered one injury on the head which was a CLW. His brother had suffered nose bleeding and his father had suffered incise wound on the right forearm. According to learned counsel for the Applicant, the Medical Officer has not stated that those were grievous injuries.
7. Learned counsel submitted that the incident is old. He was on bail during trial. He has not committed any offence. As of today, he has completed almost one year of sentence out of the sentence of seven years.

8. I have considered these submissions. The incident is old. The Applicant was on bail during trial. The remaining sentence is 6 years. The Appeal is not likely to be decided during that period. There is some force in the submissions made by the learned counsel for the Applicant that the Applicant did not have any intention to commit robbery because the incident had started because of the dispute regarding parking of the tanker in front of the informant's shop. The other victims have suffered minor injuries. The Applicant had opportunity to inflict serious injuries, but the injuries on the other two victims are minor injuries.

9. Considering all these aspects, the Applicant can be granted bail pending his Appeal.

10. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.482 of 2024, the Applicant is directed to be released on bail on his furnishing

P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.

- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)