

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

**INTERIM APPLICATION NO.2035 OF 2024
IN
CRIMINAL APPEAL NO.1406 OF 2023**

Akram Mohammed Yakub Shaikh	Applicant
Versus	
The State of Maharashtra	Respondent

Mr. Tanoj Joshi, Advocate a/w. Anil Y. Bansode, Krushna Wakhore, Mateen Shaikh, Shivani Gautam for the Applicant.
Mr. S.H. Yadav, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 13th JUNE, 2024

P.C. :

1. This is an application for bail pending Criminal Appeal No.1406/2023. The Applicant was the only accused in Sessions Case No.962/2015 before the Additional Sessions Judge, Greater Bombay. At the conclusion of the trial, the Applicant was convicted for commission of the offence punishable under Section 307 of IPC and was sentenced to suffer RI for five years and to pay fine of Rs.3,000/- and in default to suffer SI for two months. He was convicted under

Sections 504, 452 of IPC, under Sections 4 & 27 of the Arms Act and under Section 37 and 135 of the Bombay Police Act. However, the major sentence is under Section 307 of IPC.

2. The case arises out of C.R. No.248/2015 registered with Tilak Nagar Police Station, Mumbai. The incident is dated 11.8.2015. The prosecution case is that on that day the accused – Applicant entered the shop of PW-1 Rajnish Singh and assaulted him with a sword. It is the case of the prosecution that PW-1 was obstructing the activities of the accused in dealing with drugs and, therefore, this incident had taken place.

3. Learned counsel for the Applicant submitted that out of sentence of five years, the Applicant has completed 2 years and 10 months of actual imprisonment. Therefore, only a small portion of sentence is still remaining. He submitted that on merits the medical certificate does not show that any grievous injury is caused. Therefore, the Applicant be released on bail.

4. Learned APP opposed these submissions. According to him, there is sufficient evidence against the Applicant. PW-1 was the injured witness who had deposed about the assault. The victim had suffered one injury behind the ear. Therefore, the Applicant does not deserve to be released on bail.

5. I have considered these submissions. Apart from PW-1 the victim, the evidence of PW-5 Dr. Lokhande is important. He has deposed that PW-1 had suffered one CLW on left palm of the size 5 x 1 x 0.5 cm and other CLW was on left pre auricular area of the size 4 x 1 x 0.5 cm. There was one abrasion near that injury. However, he has not deposed that either of these injuries was a grievous injury and as to how the victim's life was in danger.

6. The Applicant has already completed sufficient part of the sentence. The Appeal is not likely to be heard during the remaining part of the sentence of about two and half years. The medical evidence does not show that the victim had suffered any grievous injury.

7. In this view of the matter, the Applicant deserves to be released on bail during pendency of this Appeal.

8. Hence, the following order :

ORDER

- (i) During pendency and final disposal of Criminal Appeal No.1406/2023, the Applicant is directed to be released on bail on his executing a 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 is disposed of accordingly.

(SARANG V. KOTWAL, J.)

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