

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

**INTERIM APPLICATION NO.3535 OF 2024
IN
CRIMINAL APPEAL NO.960 OF 2024**

Divyesh Haresh PatelApplicant

Versus

Union Territory of Dadra
Nagar Haveli, Daman and Diu
and another Respondents

Mr. Tanmay Bhawe, Advocate for the Appellant.

Ms. Ranjana D. Humane, APP for the Respondent-State.

Mr. H.S. Venegavkar, Special PP a/w. Amisha Salvi, for
Respondent No.1 – UT.

CORAM : SARANG V. KOTWAL, J.

DATE : 02nd SEPTEMBER, 2024

P.C. :

1. This is an Application for bail pending the final disposal of the Applicant's Criminal Appeal No.960/2024.

2. The Applicant was the original accused No.1 in Sessions Case No.1/2019 before the Sessions Judge, Dadra and Nagar Haveli, Silvassa. There were other two accused, who were acquitted from the case. The Applicant was convicted for commission of the offence punishable under

Section 326 of IPC and was sentenced to suffer RI for three years and to pay fine of Rs.10,000/- in default to suffer SI for two months.

3. Heard Mr. Tanmay Bhave, learned counsel for the Appellant and Mr. H.S. Venegavkar, learned Special P.P. for Respondent No.1.

4. The prosecution case is that the informant Amratbhai Patel was running a Restaurant & Bar at village Demni, Rohitwas, Dadara & Nagar Haveli. The incident occurred on 25.8.2018. There was some quarrel between the four customers and the waiter. They assaulted the waiter. The informant intervened. Those four persons went away from the spot. They again came back after some time. One of them was holding a beer bottle. He gave a blow on the informant's left eye-brow and then they ran away. The incident was captured in the CCTV footage. The injury was stitched and he was admitted to the hospital. Then the FIR was lodged. The medical evidence shows that there was fracture of orbit bone.

5. Learned counsel for the Applicant submitted that the identity of the Applicant is seriously disputed. The test identification parade was not held. The CCTV footage is not properly proved. He submitted that the learned Judge has not placed much reliance on the CCTV footage. He submitted that the sentence is only three years. Even after his conviction, the Applicant was granted bail for a temporary period under Section 389 of Cr.P.C.

6. The learned Special PP .for the Respondent No.1 opposed these submissions.

7. I have considered these submissions. The issues raised by the learned counsel for the Applicant in this Application will have to be decided at the final hearing stage. However, the sentence is short and the Appeal is not likely to be decided within three years, which is the major sentence imposed on the Applicant. The Applicant was on bail during the trial and even after his conviction, today he is on temporary bail under Section 389 of Cr.P.C. In this view

of the matter, I am inclined to grant bail to the Applicant pending his Appeal.

8. Hence, the following order :

:: O R D E R ::

- i. During pendency and the final disposal of Criminal Appeal No.960/2024, the Applicant is directed to be released on bail on his executing a PR 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.)