

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

BAIL APPLICATION NO. 64 OF 2024

Hussain Abdul Fakir Mohammad Pinjari ... Applicant
Versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION (ST.) NO. 18950 OF 2024
IN
BAIL APPLICATION NO. 64 OF 2024**

Sonu Kamruddin Sheikh ... Applicant
Versus
The State of Maharashtra ... Respondent

Mr.I. S. Thakur a/w Mr. Govind Regmi i/by Global Juris Consults
for the Applicant.

Mr.Sagar R. Agarkar, APP for Respondent-State.

Mr.Shekhar V. Mane i/by Mr. Madhur S. Salkar for Applicant in
IAST/18950/2024.

Mr.Deepak Khedkar, PSI, Thane Nagar Police Station, Thane City.

**CORAM: MANISH PITALE, J.
DATE : 10th SEPTEMBER 2024**

P.C. :

. Heard learned counsel for the applicant and learned APP for
the respondent-State as well as learned counsel appearing on
behalf of the intervenor (first informant), who has filed an
intervention application.

2. The applicant is seeking bail as he was arrested on 18th June

2023 in connection with FIR No. 0119 of 2023 dated 18th June 2023 registered at Thane Nagar Police Station, Dist. Thane, for offence under Section 307 of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on the basis of statement of the informant that on 17th June 2023, the applicant assaulted the informant and his companion by uttering the words that the informant was defaming the applicant by falsely implicating him in criminal cases. The allegation is that the applicant used a knife to assault the informant and in the process, his companion was also injured. The applicant was arrested. The investigation was completed and charge-sheet was filed on 14th September 2023. The applicant has remained behind bars since 18th June 2023.

4. The learned counsel for the applicant submitted that the FIR was delayed by about 8 hours and this factor ought to be taken into consideration. Attention of this Court is invited to the injury certificate, which according to the learned counsel for the applicant did not correspond with the description of the incident given by the informant. It is further submitted that when the Investigating Officer approached the treating hospital about the nature of injuries suffered by the informant and the injured eye-witness, it came to light that history was given in the said hospital about assault by a metallic object, while the case of the Investigating Authority was that the assault was by means of a knife, which was allegedly recovered from the applicant. According to the learned counsel for the applicant, these

contradictions, create a strong doubt about the case of the prosecution.

5. It is further submitted that in the present case, the charge being framed recently on 4th September 2024, the trial would take its own time. This Court and the Supreme Court in the similar cases where the accused under-trials were facing prosecution under Section 307 of the IPC, granted relief of bail when the accused under-trials had suffered incarceration ranging from few months to less than a year. It was submitted that considering the position of law laid down by the Supreme Court, as regards the ingredients of the offence under Section 307 of the IPC and the factual matrix necessary to reach a *prima facie* finding in that regard, in the facts of the present case, the applicant has made out a strong *prima facie* case in his favour to be enlarged on bail.

6. On the other hand, the learned APP has opposed the present application. He invited attention of this Court to the statements of the informant, the injured eye-witness as well as the other witnesses to contend that overt acts have been specifically attributed to the applicant. The knife has been recovered from the applicant himself and the injury certificates do correspond to the allegations made against the applicant. It is submitted that the charge-sheet cites 16 witnesses and therefore, the trial can be completed in an expeditious manner. Since, a strong *prima facie* case is made out against the applicant, the application may be dismissed. It is further pointed out that the applicant has criminal

antecedents with atleast 3 FIRs registered against him and two NCRs. One of the FIRs pertains to offence under Section 395 of the IPC. It is highlighted that the present crime was committed when the applicant was enlarged on bail in the other FIRs.

7. The learned counsel appearing for the intervenor supported the statement made by the learned APP.

8. This Court has considered the material, particularly the statements of the informant and the injured eye-witness. The overt acts of the applicant have been described in detail, including use of knife as a weapon of assault. The material on record shows that the knife was recovered from the person of the applicant.

9. A perusal of the injury reports does indicate injuries suffered by the victims corresponding to the overt acts attributed to the applicant. At this stage, this Court finds no substance in the contention raised on behalf of the applicant and the injury certificates belie the nature of assault described by the informant and the injured eye-witness.

10. As regards the injury reports given by the treating hospital, merely because the history of the assault records injuries caused by a known person by a metallic object, it cannot be said that any serious doubt is created about the case of the prosecution. The nature of injuries even in the said reports corresponds to the injuries described in the injury reports and description of the

assault by the informant and the injured eye-witness.

11. Therefore, the presence and involvement of the applicant in the instant offence is *prima facie* made out. He was a known person and therefore, immediately identified by the informant and the injured eye-witness at the place of the incident itself. Considering the manner in which the applicant launched the assault, it would not be safe at this stage to reach the conclusion that the ingredients of the offence under Section 307 of the IPC, are not made out. It is relevant to note that the applicant is alleged to have committed the present crime when he was on bail in other crimes.

12. As regards the judgments of the Supreme Court and this Court relied upon by the learned counsel for the applicant, suffice it to say that the orders granting bail are necessarily passed in the context of the facts pertaining to those individual cases and merely because in some cases where the accused under-trial is facing prosecution under Section 307 of the IPC and bail is granted after having suffered incarceration for a period of few months or less than a year, it cannot be said that any specific principle of law has been laid down to be followed in all cases, without reference to the facts of the individual case that comes up before the Court. Therefore, this Court is not inclined to hold in favour of the applicant on the strength of the judgments relied upon by the learned counsel for the applicant.

13. The list of witnesses annexed to the charge-sheet shows that the prosecution intends to examine 16 witnesses. In practical terms, during the course of trial fewer witnesses are examined and therefore, this Court is of the opinion that the trial in the present case can be completed expeditiously, particularly when charge has already been framed on 4th September 2024.

14. In view of the above, the application is dismissed.

15. However, the concerned Court is directed to expedite the trial proceedings and make all attempt to complete the trial, as far as possible, on or before 31st July 2025.

16. In the event, the trial is not completed within the aforementioned period and the delay is not attributable to the applicant, liberty is reserved for the applicant to renew his prayer of bail.

17. It is made clear that this application is dismissed on merits and not because the trial can be completed expeditiously.

18. In view of the dismissal of the bail application, the interim application is disposed of.

MANISH PITALE, J.