

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 5083 OF 2024

Tahir Khalil Khatib and Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

Ms. Misbaah Amin Solkar a/w Mr. Mohammed Juned, learned Advocates for the Applicants.

Mr. Tanveer G. Khan, learned A.P.P. for the State/Respondent.

PSI Ms. Kishori Sabale attached to Shahapur Police Station, Kolhapur is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 10th JULY 2025.

P.C. :

1. Heard Ms. Misbaah Solkar, learned Advocate for the Applicants and Mr. Tanveer Khan, learned A.P.P. for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 ("**BNSS**" for short), the Applicants are before this Court seeking regular bail in connection with Crime No. 198 of 2024 registered with Shahapur Police Station, Ichalkaranji for the offences punishable under Sections 307 read with 34 of the Indian Penal Code, 1860 ("**IPC**" for short).

3. Ms. Misbaah Solkar, learned Advocate for the Applicants submits that the abovesaid crime is now registered as Sessions Case

No. 70 of 2024 and is pending on the file of learned Additional Sessions Judge, Ichalkaranji, Kolhapur.

4. Applicants were arrested on 29th May 2024 and since then they are in jail. Criminal Bail Application No. 224 of 2024 filed by the Applicants was rejected by the learned Additional Sessions Judge, Ichalkaranji, Kolhapur by order dated 7th October 2024.

5. Case of the prosecution is that an altercation, resulted into a scuffle between group of members. Mr. Wajid Mujawar (victim) was assaulted by the accused persons in the said crime. Grievous Injuries caused to the victim are on the head and chest. Accused Nos. 2 and 3 assaulted the victim on head and chest. Applicants (Accused Nos. 1 and 4 respectively) participated in the said assault by fist and blows.

6. Ms. Misbaah Solkar, learned Advocate submits that the involvement of Applicants in the present crime is of assaulting the victim by fist and blows. She submits that the Injury Certificate of victim indicates grievous injury being caused to the victim on the head and chest. She submits that there are no allegations against the Applicants of having assaulted the victim either on the head or on the chest. She submits that the allegations pertaining to assault on the victim on his head and chest are against the other two accused persons. She submits that the incident is neither premeditated, nor does the prosecution allege so. She submits that the incident has happened at the spur of moment. She submits that the Applicants do not have any criminal antecedents.

7. Mr. Tanveer Khan, learned A.P.P. for the State/Respondent

submits that the involvement of Applicants is seen from the prosecution case. He submits that there are eye witnesses to the said crime. He submits that the scuffle and the assault on the victim was in view of a previous enmity. He submits that the victim has suffered grievous injuries on the head and chest. He submits that the Applicants and the other accused persons, had common intention to cause harm to the victim.

8. I have perused the records with the assistance of learned Advocates of the parties.

9. Charge-sheet reveals that the role assigned to the Applicants (Accused Nos. 1 and 4 respectively) in the assault is of hitting the victim by fist and blows. Ms. Misbaah Solkar, learned Advocate is right in submitting that the Injury Certificate refers to grievous injuries being caused to the victim on his head and chest, however, the Applicants are not involved in assaulting the victim on his head or on his chest. Material brought on record by the investigation indicates that the scuffle was at the spur of moment. Applicants are in jail for a period of 1 year and 2 months. No recoveries are made at the instance of Applicants. Recoveries are made at the instance of other accused persons.

10. Ms. Misbaah Solkar, learned Advocate submits that the Applicants do not have any criminal antecedents.

11. *Prima facie*, the assault at the hands of Applicants does not indicate to be a premeditated act. Investigation is complete and the charge-sheet is filed in the present matter. In such circumstances, detention of the Applicants in jail pending the trial,

is not warranted. Hence, the Applicants are entitled for bail.

12. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicants are directed to be released on bail in connection with Crime No. 198 of 2024 registered with Shahapur Police Station, Ichalkaranji for the offences punishable under Sections 307 read with 34 of the IPC on executing PR. Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) each with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Ichalkaranji, Kolhapur.
- b. Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade him from disclosing such facts to the Court or to any police officer.
- c. Applicants shall not tamper with the prosecution witnesses and evidence in any manner.
- d. Applicants shall co-operate in the conduct of the trial and shall regularly attend the hearing of Sessions Case No. 70 of 2024, pending on the file of Additional Sessions Judge, Ichalkaranji, Kolhapur, on each and every date, unless exempted from appearance.
- e. Applicants upon their release, within a period of three

days from their release, shall furnish their cell phone numbers and residential addresses with proof to the Investigating Officer, Shahapur Police Station, Ichalkaranji and shall keep the same updated, in case of any change thereto.

13. Criminal Bail Application No. 5083 of 2024 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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by GITALAXMI
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KOTAWADEKAR
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