

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2380 OF 2024

Sahil Raju Nadar

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Ms. Afreen Shaikh a/w Mr. Nikhat Shaikh for Applicant
- Mr. Balraj B. Kulkarni, APP for State
- Mr. Pravin Murlidhar Patil (Pairavi), PSI, Sakinaka Police Station, Mumbai

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 27, 2025

P. C.:

1. Heard Ms. Shaikh, learned Advocate for Applicant and Mr. Kulkarni, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C." in connection with Crime No. 1060 of 2023 registered with Sakinaka Police Station, Mumbai for the offences punishable under Sections 307, 452, 141, 143, 144, 146, 147, 148, 149, 323, 504 & 506(2) of the Indian Penal Code, 1860 (for short, "IPC"); Section 25 read with section 4 of the Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. FIR is filed by the First Informant who works as a Manager in Shahi Darbar Hotel situated at Sakinaka, Mumbai. Applicant before me is resident of Sakinaka / Asalpha area in Ghatkopar who is known to the First Informant. There is no doubt that there are certain antecedents of the Applicant as he appears to be a person having criminal background. The date of the incident is the intervening night of 13.11.2023 and 14.11.2023. After closure of the hotel for the day, First Informant and his staff members were sitting outside the hotel and at that time First Informant asked one of his staff members Amir Sakir to bring coffee from the street vendor. When Amir Sakir went to bring coffee, he came back and informed First Informant that he was abused and beaten by Applicant and his friends who were angry when he asked them to pay the money for the food parcel which they had taken from the hotel on that day. First Informant thereafter stated that Applicant along with 10-12 accomplices barged into the hotel and started abusing all present in a loud voice. They were armed with dangerous weapons like swords, wooden bamboo sticks in their hand. First Informant has stated that he was assaulted inside the hotel by the Applicant with sword on his head but he was able to deflect the said blow and save him from the blow. First Informant has stated that Applicant and his 10-12 accomplices created ruckus inside the hotel and damaged the entire hotel property and threatened him and some

of the staff members inside the hotel. First Informant has further stated that they raised alarm due to which several staff members of the neighboring hotels called Bentely Guest House and Mahira Dormet, some rickshawallas and passerby gathered at the incident spot but the Applicant waived the sword in his hand and threatened all of them. Thereafter seeing the patrolling police approaching the spot. Applicant and his 10-12 accomplices left the incident spot after injuring two staff members namely Amir Sakir & Sahad Anglodia.

4. The version of the First Informant in the FIR however is in complete contradiction with the panchnama dated 22.12.2023 which records the CCTV footage of the spot of incident in six video files graphically. I have perused the said panchnama appended at page Nos. 39-41 of the Application and on perusal what transpired precisely at the incident spot is clearly depicted in the six video transcript files which are dealt with in the said panchnama. *Prima facie* on reading the said panchnama, it is clear that at any point of time neither the Applicant or any of his staff members were assaulted by the Applicant with the sword and he gave any threat to kill them or they were assaulted by the sword. One thing is clear from the CCTV footage which is depicted in detail that in order to show his reign of terror Applicant is seen damaging one table glass with the sword and one of his accomplice used the wooden stick to damage the kitchen counter.

What is intriguing is the fact that the CCTV footage records the entire happening inside as well as outside the hotel and it records that four persons can be seen / present inside; three of which accompanied the Applicant inside whereas two of his accomplices are seen standing outside. Thus *prima facie* evidence itself contradicts the statements made in the FIR which are *prima facie* unbelievable. That apart the version of the two injured witnesses also does not corroborate the case of the prosecution.

5. Amir Sakir has recorded his statement on 16.11.2023 (which at page No. 48 of the Application) three days after the incident wherein he cursorily states that he was kicked by one person from behind and by whom he does not know and 3-4 persons thereafter started inflicting blows on him with their fists and kicks and when he came back to the hotel the said persons followed him. However, his own version states that when the actual incident took place, he was not inside the hotel and he had come out and when he re-entered the hotel, he found that the furniture i.e. two fridges, cash counter, parcel counter, computer and 2-4 chairs were damaged.

6. The version of Sad Mohammad another eye witness has stated that at the time of incident it was 2:20 a.m and some assailants entered the hotel and damaged the shutter and after entering inside, they started creating ruckus by breaking the furniture.

7. The statement of Mohammad Anis Khan who has recorded his statement four days after the incident once again does not support the prosecution case. He states that at about 12:30 p.m. after closure of the hotel, he was doing cleaning work outside the hotel. At that time he heard loud noise and abuses. He saw some persons damaging and assaulting with swords, iron tikav and wooden bamboo sticks inside the hotel. No other details are given.

8. In view of the clear dichotomy in version of the aforesaid eye witnesses and the FIR, I am inclined to allow the present Bail Application. In view thereof, present Application is allowed in terms of prayer clause (1) of the Application subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter as and when called;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically

exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (v) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;
- (vii) Any infraction of the above conditions shall entail prosecution to seek cancellation.

9. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case.

10. In view of the above directions, Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]