

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3381 OF 2024

Ashish Premchand Dhanawade @ Lakhan .. Applicant

Versus

State of Maharashtra .. Respondent

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- Ms. Kaushalya Patil, Advocate i/by Pushpa Ganediwala & Co. for Applicant.
- Ms. Sarita Mahesh Yadav, APP for Respondent – State of Maharashtra.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 06, 2025

P.C.:

1. Heard Ms. Patil, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent – State of Maharashtra.

2. This is an Application seeking grant of regular bail by Applicant. The date of incident is 14.12.2023 on which date, Applicant a CCTV installation mechanic and contractor was enraged after observing in the CCTV footage about some person spitting gutkha on his motorcycle seat. From the CCTV footage, he gathered that the person who had spat on his motorcycle was none other than the victim in the present case. This is the specific story which comes into the version of the First Informant who is the friend of the victim.

3. Ms. Patil points my attention to the First Information Report (for short '**FIR**') filed which is appended at page No.25 wherein while

recording the FIR, the aforesaid version though is stated but the actual incident leading to infliction of the blow by Applicant on the victim is specifically narrated stating that there were three blows inflicted by Applicant on the victim's body due to certain old enmity between the Applicant and victim. Such specific version is narrated in the FIR on page No.25 as can be seen.

4. However in the statement recorded of the eye witness who is one of friends of victim and namely Praveen Bharat Prashale which is appended at page No.34, he states that Applicant in fact inflicted two blows on the head of the victim. As the case is, charge-sheet specifically records the entire incident having been captured on CCTV footage. That exact version of what happened and the incident as to how it happened is appended by prosecution on page No.40 of the Application. It states that it can be clearly seen in the CCTV footage that on 14:22:35 hours Applicant inflicted the first blow on victim on his right leg whereas at 14:22:36 hours he inflicted the second blow on his head resultantly causing the victim to fall on the ground in force (जोरात फुटपाथवर पडत असल्याचे दिसत असुन). These were the only two blows inflicted

5. Ms. Patil would draw my attention to the aforesaid and would submit that Applicant has been indicted under Section 307 and Section 302 of Indian Penal Code, 1860 (for short '**IPC**') and the

weapon in question is a cricket bat. However she would submit that though in FIR it is stated by First Informant that there was previous enmity between parties due to which the said incident occurred, *prima facie* it is not so as it can be clearly gathered that Applicant was incensed due to happening of the precursor incident about spitting of gutkha on the motorcycle seat of Applicant. She would therefore submit that the incident having occurred in the spur of moment due to the precursor incident, Applicant's case should be considered leniently for grant of bail. She would submit that the Applicant is having no criminal antecedents whatsoever as also he is into business of installation of CCTV for the past several years. She would submit that Applicant is 34 years old, that he is also the breadwinner of his family having two children who are of age 10 and 3 years respectively. That he is incarcerated since 15.12.2023 for about 13 months.

6. After having heard Ms. Patil and Ms. Yadav who has also attempted to argue about the gravity of the incident, after perusing the record I am of the opinion that there is a clear dichotomy about the number of blows inflicted in the present case as per the version of the informant and the eye witnesses. The fact that the second blow inflicted on the head or the falling on the ground with force may have resulted in the injury is therefore unclear. Hence, in view of the above, *prima facie* evidence of the CCTV footage as is explained in detail, and the Applicant having been incarcerated in prison from 15.12.2023, he

deserves to be enlarged on bail. Hence, the following order:-

- (i) Applicant – Ashish Premchand Dhanawade @ Lakhan, who is facing trial in Sessions Case No.262 of 2024 pending on the file of Additional Sessions Judge, City Civil and Sessions Court, Greater Bombay, is ordered to be released on bail on furnishing P.B. and S.B. in the sum of Rs.50,000/- (Rs. Fifty Thousand only) with one surety of the like amount;
- (ii) Applicant shall report to the Investigating Officer at the concerned Police Station, once every month on the first Monday of the month between 10:00 a.m. to 12:00 p.m.;
- (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 revocation 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, as applicable;

(vii) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

7. The aforesaid observations are *prima facie* on the basis of record of the case which has been argued before me and is an expression of opinion by this Court only for the purpose of enlargement of Applicant on bail and shall not influence the trial in the present case.

8. In the above terms, Bail Application stands allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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