

Prasad Rajput

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3534 OF 2024

Santosh Bala Jadhav .. Applicant
Versus
The State Of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO. 3706 OF 2024
IN
CRIMINAL BAIL APPLICATION NO. 3534 OF 2024

Ravi Alkhi Yadav .. Applicant
Versus
The State Of Maharashtra and Anr. .. Respondents

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- Mr. Arun Rajput a/w Mr Viral Mukte, Advocates for Applicant.
 - Ms. Sarita M. Yadav, APP for State.
 - Mr. Satyam Dubey a/w Ms. Aarti Yadav, Advocates for Intervenor.
 - Mr. Kishor Kharat, PSI, Sahar Police Station, Mumbai.
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 12, 2025

P. C.:

1. Heard Mr. Rajput, learned Advocate for Applicant; Mr. Dubey, learned Advocate for Intervenor and Ms. Yadav, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 391 of 2023 registered with Sahar Police Station for the offence punishable under Sections 307, 326, 323, 504, 506 of Indian Penal Code, 1860 and under Section 142

of Maharashtra Police Act, 1951. Application of Applicant for regular bail was rejected by learned Sessions Court vide order dated 14.03.2024, which is appended at Page No.109 of the Application.

3. Both the learned Advocates namely learned APP and Mr. Dube, learned Advocate to whom I have permitted to appear on behalf of Intervenor / Ori. Complainant to address the Court to oppose bail application have submitted that reasons stated in the rejection order and more specifically reluctance of the Applicant to cooperate in the trial to be considered by the Court apart from the merits.

4. It is seen that on the date of incident i.e. on 30.08.2023 at about 02:00 am in the early morning rather on the intervening night of 29.08.2023 and 30.08.2023, First Informant / Complainant was passing on his motorcycle in Sanjay Nagar area of Andheri East where he saw Applicant having verbal altercation with an old person. Since the First Informant / Complainant knew Applicant as they hailed from the same area he immediately intervened and asked Applicant what happened upon which Applicant started abusing him. The First Informant / Complainant therefore attempted to reason with the Applicant but Applicant retaliated by inflicting fist and kick blows on him. The First Informant / Complainant thereafter stated that he started shouting because of inflicting of fist and kick blows which alerted the passerby gathered at the spot because of which Applicant

was incensed and he picked up an iron stool lying on the road and inflicted a blow with it on the head and face of victim resulting in injuring the First Informant / Complainant. Applicant thereafter left the spot after abusing and threatening the First Informant / Complainant. From the record it is seen that prosecution has not recorded that statement of person with whom Applicant was having verbal altercation because of which First Informant / Complainant intervened because then the reason would have been explicitly clear. Motive is not clear at all.

5. Mr. Rajput, learned Advocate for Applicant would submit that investigation is complete and charge-sheet has been filed but no charge has been framed. Applicant is incarcerated for more than 2 years rather 2 years 5 months and 13 days and therefore he would persuade the Court to consider Bail Application.

6. Mr. Dubey, learned Advocate for Intervenor / Ori. Complainant has vehemently objected to grant bail to the Applicant. He would submit that intervention application is filed which shall be considered by this Court.

6.1. He has made several submissions to persuade the Court to reject the Bail Application. At the outset, Mr. Dubey would submit that Applicant has four serious antecedents which cannot be ignored by the Court and he has been convicted in one of the four offences committed

by him earlier. He would submit that Applicant was serving an externment sentence when he was not supposed to enter the jurisdiction of the incident spot in question, despite which he has breached that order and he was found at the incident spot.

6.2. He would submit that Applicant is reluctant to proceed with the trial and has been taking unnecessary adjournments before the Trial Court which is evident from the order dated 14th March, 2024 passed by the Trial Court. Therefore, he would submit that appropriate directions be passed to expedite the trial.

6.3. He would further submit that the two eye witness whose statements have been recorded clearly indict the Applicant and his role in commission of crime.

6.4. Lastly he would submit that Medical report which is appended at Page No.46 onwards be considered by this Court and would state that First Informant / Complainant had to undergo medical treatment and medication in hospital over a period of one month considering the gravity of the injuries suffered by him.

7. Ms. Yadav, learned APP for State would persuade the Court to consider that Applicant being a habitual offender having been externed committed the crime by breaching the externment order and there is every possibility that if he is released on bail he would re-

offend and get emboldened to commit further crime considering his antecedents.

8. After hearing the learned Advocates, I have perused the record of the case. Precise reason and motive for crime in question is gathered only from the FIR which is the version of the First Informant / Complainant. If the prosecution could have been vigilant and recorded the statement of the old man / person who was the prime witness to the incident in question, Court would have been aided and assisted with the same. Though learned Advocate for the Intervenor / Ori. Complainant has persuaded the Court to consider the Applicant's antecedents, *prima facie*, version given by the First Informant in the complaint is unidirectional because the motive is not clear at all.

9. Medical report appended at Page No. 46 onwards of the Application and report of treatment is at Page No.55. Medical certificate *prima facie* shows three injuries suffered by the victim all being simple injuries and these injuries are caused by a blunt object. On page No.55 it is *prima facie* seen that history narrated by the Applicant of the assault is by one known and two unknown persons at about 01:30 am on the previous night. Apart from the time of assault stated therein the number of persons causing the injury clearly contradicts the statement made in the FIR. Statement at Page No.55

may have corroborative value as *prima facie* the material presented before me will have to be considered as it is. There is a clear dichotomy in the aforesaid statements.

10. In view of the above observations, Applicant is entitled to bail. However, due to submissions made by Mr. Dubey and the antecedents of the Applicant I am inclined to impose strict conditions on the Applicant to be observed since one of submissions made by Mr. Dubey and prosecution is that he has breached the earlier externment order.

11. In view of the request made by Mr. Dubey, learned Advocate for Intervenor, the learned Trial Court is directed to consider expediting the trial at its convenience.

12. In that view of the matter, Application is allowed 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 am to 12:00 pm 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 revocation of this order;
- (iv)** Applicant is prohibited from entering the jurisdiction of Sahar Police Station, Sakinaka Police Station, Powai Police Station, MIDC Police Station and Majas Police Station until the completion of trial in the present case, except for attending the Police Station as directed hereinabove;
- (v)** Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court; Applicant shall submit his passport, if any, with the Investigating Officer within a period of one week of his release from jail;
- (vi)** Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vii)** 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;

(viii) Any infraction of the above conditions shall entail cancellation of this order.

13. 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.

14. In view of the above directions, Bail Application stands allowed and disposed. Interim Application is accordingly disposed.

ER. Rajput

[MILIND N. JADHAV, J.]