

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3769 OF 2024

Arman Abdul Aziz Khan and Anr. .. Applicants

Versus

State of Maharashtra .. Respondent

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- Mr. Amrish R. Salunke a/w Ms. Shraddha Shinde, Ms. Tanvi Gaikwad, Mr. Durgesh Pandey and Mr. Sunil Kumar Gupta, Advocates for Applicant.
 - Mr. Sukanta A. Karmakar, APP for State.
 - Mr. Gaurishankar Pabale, Wadala Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 13, 2025

P. C.:

1. Heard Mr. Salunke, learned Advocate for Applicant and Mr. Karmakar, learned APP for State.

2. Applicants are brothers and they are indicted in an offence committed under Section 307 for having assaulted the injured victim who is First Informant with a knife, fist and kick blows. Date of incident is 24.10.2023. FIR is appended at Page No.34 of the Application, reading of which shows that in the early hours of 24.10.2023 at about 04:00 am, Applicant - Accused No.1 along with Applicant – Accused No.2 and Accused No.3 (absconding) approached First Informant when he was standing near his Tempo and chatting with his friend called Irfan Ansari.

2.1. First Informant has stated that at that time, Applicant - Accused No.1 approached him from behind and with a knife (weapon in question) assaulted him at seven places, initially inflicting knife blow on his neck and at two places on his waist, on his head, thigh, chest and both hands. After this assault First Informant states that he freed himself and ran away from the spot when he was accosted by Applicant - Accused No.2 and absconding Accused and they both inflicted fist and kick blows on him but the First Informant managed to free himself and run away despite they giving a chase.

2.2. First Informant was thereafter admitted to the Hospital by his relatives and underwent treatment. He has stated in the FIR that he was immediately moved by his brother in law to KEM Hospital and he received treatment over there.

3. Mr. Salunke, learned Advocate appearing for Applicant would draw my attention to the medical report of injuries and treatment given to the First Informant which is appended at Page No.46 of the Application. From reading of medical report it is seen that a substantial part of what is stated in the FIR would *prima facie* be doubtful and suspect.

4. Medical report issued by Hospital states that First Informant was examined on 27.10.2023 i.e. three days after the date

and time of incident in question. Medical report states that all seven injuries are simple in nature and they were inflicted merely two hours before.

5. At this stage Mr. Karmakar, learned APP would persuade me to allow him to get the entire medical record in order to erase the doubt and dichotomy noticed in the medical certificate when it juxtapose with the FIR in question. He would also persuade the Court to consider recovery of knife which has been used by Applicant and statements of witnesses which are recorded. One such statement of the witness who took First Informant to the Hospital is appended at Page No.53 of the Application. It is recorded on the following day after the incident took place that is more than 24 hours later. It is by one Irfan Anis Shaikh is the person who had taken the First Informant to the Hospital for treatment. He has in his statement stated the date of incident to be 24.10.2023.

6. From the reading of the FIR and the injury certificate and version of the First Informant, role of Applicant No.2 is clearly distinct and attributed to him giving kick and fist blows when injured First Informant was running away from the clutches of the Applicant No.1.

7. However, the dichotomy in the medical certificate and the nature of injuries being simple persuade me to consider the case of

both the Applicant. However, Mr. Karmakar would seek sometime to place on record details of the medical treatment received by the First Informant in order to dispel the doubt with respect to the date of the medical certificate which is 3 days later.

8. This matter will be treated as Part Heard and heard on the next adjourned date.

9. Stand over to **20th February, 2025 (F.O.B.)**. To be listed under the caption 'First on Board' on Supplementary Board.

[MILIND N. JADHAV, J.]