

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3769 OF 2024

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| 1. | Arman Abdul Aziz Khan | .Applicants |
| 2. | Nazir Ahmed @ Gudd Abdul Aziz Khan | |

Vs.

The State of Maharashtra	.Respondent
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Mr. Amrish Salunke a/w. Ms. Shraddha Shinde, Ms. Tanvi Gaikwad,
Mr. Durgesh Pandey & Mr. Abhiram Venugopal, Advocates, for the
Applicants

Mr. S. A. Karmakar, APP, for the Respondent – State

Mr. Gaurishankar S. Pable, P. I., WTT Police Station, Mumbai present

CORAM : MILIND N. JADHAV, J.

DATE : 04.03.2025

P. C.

1. By this Application, the Applicants seek their enlargement on bail in connection with C.R. No. 338 of 2023 for the alleged offences punishable under Sections 307 & 323 r/w. 34 of the Indian Penal Code, 1860 (for short 'IPC') and under Sections 37(1)(a) and 135 of the Maharashtra Police Act, 1951 registered with the WTT Police Station, Wadala(E), Mumbai.

2. Both the Applicants before me along with one of the absconding accused namely Halim are alleged to be involved in the crime on the date of incident of having assaulted the victim namely Irfran Ansari. On

the date of the incident i. e. 24.10.2023 at about 4.00 p. m. in the evening when the injured victim had parked his vehicle near a hosiery shop adjacent to Nisan dairy, Shanti Nagar area, Wadala(E), Mumbai, when they were loading the material at that time, the three accused namely two Applicants and absconding accused – Halim ambushed the victim from behind. The victim is the first informant in the case. Reading of the witnesses statements show that Applicant No. 1 assaulted the first informant – victim with a knife at three places on his body and Applicant No. 2 and absconding accused – Halim assaulted him with kicks and blows. In order to save himself from the attack, the first informant – victim ran away and since the incident spot was a busy market place situated on the road, absconding person also ran away from the spot. None of the witnesses statements which are appended *prima facie* state that they saw the Applicants inflicting injury on the first informant by the weapon, save and except the statement of the first informant – victim. What is crucial to be noted is that the ambush and assault on the first informant – victim was from behind and he was taken completely unaware. Hence, learned Counsel appearing for the Applicants would persuade me to consider two submissions. Firstly, he would submit that there is no direct evidence of any eye witness to the incident. He would submit that there is absence

of circumstantial evidence either. Secondly, he would persuade me to see the Injury Certificate appended at page No. 46 of the Application and after taking me through the same, would state that though there are eight injuries stated therein, all injuries are simple in nature and would therefore persuade me to consider the Bail Application.

3. Mr. Karmakar, learned APP has resisted the Application by arguing that role of the Applicants before the Court is clearly borne out from the statements of the witnesses due to their presence at the incident spot at the time of happening of the offence. He would submit that when some of the witnesses attempted to provide aid to the first informant – victim, they were threatened by the Applicants. He would therefore, persuade the Court to consider that there is direct evidence in the form of eye witnesses to the incident in the present case contrary to the submissions made by the learned counsel for the Applicants.

4. I have heard the submissions advanced by learned counsel for the respective parties and considered the record of the case. One of the reasons for happening of any crime is always the motive which the Court necessarily attempts to find whenever it is confronted with a case, even if it is at a *prima facie* stage for consideration of bail. The motive of the crime is evident from the witness statement of Mr. Farooq Rasidul Khan appended at page No. 35 of the Application. From the

said statement, it is *prima facie* seen that the Applicants were incensed and enraged due to a precursor incident which occurred between the persons of the two groups relating to Applicant No. 1's sister being teased by members of the group of first informant leading to a scuffle between the parties in which some members were also injured and crime was also lodged in that regard with the law enforcement agency/police.

5. The role of the Applicants at this stage, *prima facie*, is seen and considered as above on the basis of the first informant's statement, witnesses statements and corroboration by the medical evidence.

6. Considering indictment of Applicants from 08.11.2023 and the aforementioned *prima facie* observations namely injuries being simple in nature, I am inclined to allow the Application. Applicants deserve to be enlarged on bail on the following terms and conditions :

O R D E R

(i) The Applicants be enlarged on bail, on executing P. R. Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount;

(ii) The Applicant shall attend the concerned Police Station as and when called for by the investigating officer;

(iii) The Applicants shall not tamper or attempt to influence or

contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The Applicants to co-operate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicants' bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(MILIND N. JADHAV, J.)