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

BAIL APPLICATION NO. 4734 OF 2024

Aroz@Afroz Bilal Ansari @ Minna

Applicant

.. (Orig. Accused No.1)

Versus

State of Maharashtra

.. Respondent

-
- Ms. Tahera Qureshi, Advocate for Applicant.
 - Mr. Mayur S. Sonavane, APP for Respondent – State.
 - API – Mr. Vikas Bhingardive, Shantinagar Police Station present.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 06, 2025.

P.C.:

1. Heard Ms. Qureshi, learned Advocate for Applicant and Mr. Sonavane, learned APP for Respondent – State.

2. Present Bail Application is filed by the Applicant – Accused, who is arraigned as Accused No.1. His indictment is under Sections 302, 504, 506 readwith 34 of the Indian Penal Code, 1860 (for short “**IPC**”) alongwith 3 family members namely his mother, father and brother. Other 3 accused have been granted bail by the Sessions Court.

3. The incident in question happens to be a dash given by the auto-rickshaw in which Applicant was travelling to the motorcycle which was driven by the victim and thereafter assaulting him with a

knife. Admittedly, Applicant and his family and victim and his family are all residing in the same area and are infact immediate neighbours. This is the position at the time of the incident. Incident dates back to 11.11.2018. Now both the families have changed their residence as informed by Ms. Qureshi.

4. Ms. Qureshi would draw my attention to the record of the case which states that there was a long standing civil dispute / incident of rivalry between the Applicant's and deceased victim's families for claiming the open space in front of their respective houses. She has drawn my attention to a civil dispute between the parties i.e. namely between father of Applicant and father of victim dating back prior to 1998. Civil Appeal No.32 of 1998 was decided by judgment dated 06.02.2003 in favour of victim father and against father of Applicant which is appended at page No.69 of the Bail Application. The said dispute then passed on to the present generation.

5. She would submit that in view of the Civil Court judgment having been passed which probably affected the family of Applicant, dispute between parties with respect to the claim for open space grew over the years. However, she would submit that the date of the incident is 11.11.2018 which is much after the passing of the judgment of the Civil Court. In all fairness, she would draw my attention to the medical / injury report which shows the gravity of injury caused by

Applicant by using the knife which has been recovered. However, she would submit that more than 6 years have now lapsed after the incarceration of the Applicant, who was then 24 years old and today he is 30 years old and the trial has not begun. She would therefore persuade me to consider the Application for grant of bail on any stringent condition that may be imposed by the Court solely on account of long incarceration and the facts of the case pleaded above.

6. *PER CONTRA*, Mr. Sonavane would draw my attention to the gravity of offence and would submit that in view of the precursor incident, this could be a case of premeditated offence in the present case which could be a result of a conspiracy by the Applicant alongwith his family. I have seen the orders of grant of bail to the 3 family members of Applicant and there is no allegation of conspiracy whatsoever stated therein.

7. *Prima facie*, it is seen from record that at about 06:15 p.m. on the date of the incident on 11.11.2018, auto-rickshaw in which the Applicant was travelling banged and dashed the victim and his family who were on their motorcycle leading to a scuffle and altercation, resulting in the Applicant using the knife which is a table knife to assault the Complainant.

8. *Prima facie*, from the record it is clearly seen that both the families were neighbours of each other and were living with a civil

dispute between them pertaining to claim open space in front of their respective houses. This claim was decided in the Civil Appeal in favour of the complaint's family and therefore the family of Applicant were harboring animosity. However, record shows that the civil dispute was decided long back in favour of Complainant's father. The Appeal was also decided in 2003 in his favour.

9. In the above background, present incident has occurred at 06:15 p.m. on 11.11.2018.

10. Mr. Sonavane would submit that the act of Applicant qualifies as a premeditated act, since immediately after getting down from the auto-rickshaw, Applicant assaulted the Complainant with the knife. He draws my attention to the injury certificate and has persuaded to take cognizance of the injuries suffered by the victim where he has suffered specific injuries namely to his elbow, thigh, upper zone of chest and mid zone of chest cavity. Question is whether the Applicant was carrying the knife with him to assault the Complainant or he got the knife only after getting out of the auto-rickshaw after the dash took place is not clear. The incident occurred in a busy market place area in the evening at 06:15 p.m. with several people around.

11. In the above background, Ms. Qureshi would therefore persuade me to consider the long incarceration of the Applicant who

has been in jail since 11.11.2018 for 6 years 1 month and 25 days and consider the Applicant's case for grant of bail.

12. Mr. Sonavane is directed by the Court to take instructions and place the details of the trial before the Court on the next adjourned date with respect to the progress of the trial, the number of witnesses as the next date before the Trial Court as informed by him is on 16.01.2025.

13. On the next adjourned date, after hearing Mr. Sonavane, this Court shall pass further appropriate order in the present Bail Application.

14. Stand over to **20th January 2025**. To be placed under the caption "**Part-Heard**" matters.

[MILIND N. JADHAV, J.]

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