

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4913 OF 2024

Ajay Marimutta Periswami @ Anna @ Chor
Anna @ Chembur Anna .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. Harshad G. Meshram, Advocate for Applicant.
 - Ms. Shilpa K. Gajare – Dhumal, APP for Respondent.
 - Ms. Amruta Patil, PSI, RCF Police Station.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 06, 2025

P.C.:

1. Heard Mr. Meshram, learned Advocate for Applicant and Ms. Gajare – Dhumal, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No.675 of 2021 registered with RCF Police Station for offences punishable under Sections 307, 324 and 34 of the Indian Penal Code, 1860 (for short 'IPC'); Sections 3, 4 and 25 of the Arms Act, 1959 and Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. There are three Accused persons in the crime. Accused No.3 has been granted default bail. However, role attributable to Accused No.2 is of he having fired on the First Informant by a fire arm. In so far present Applicant is concerned, he is arraigned as Accused No.1.

According to prosecution case, on the date of incident i.e. 20.12.2021, when First Informant – injured victim alongwith his friends was standing on the incident spot namely outside Building No.25, New R.N.A. Colony, Vashi Naka, Chembur at about 04:00 p.m. two Accused persons namely Accused Nos.1 and 2 (Rahil) approached them and assaulted the First Informant. Learned Prosecutor has informed the Court that Applicant and First Informant were both known persons having criminal antecedents in the area and were harbouring previous animosity and enmity with each other in order to establish their supremacy in the area where they lived and operated.

4. Ms. Gajare – Dhumal, learned APP has invited the Court's attention to the statement of witnesses appended at page Nos.70, 73 and 75 of the Application. Statement of witness at page No.70 is that of an eye witness to the incident and he corroborates the eye witness account of First Informant. In so far witness at page No.73 is concerned, he has overheard and seen the Applicant at a prior point of time of having harboured animosity against First Informant and wanted to teach him a lesson and eliminate him. That evidence is *prima facie* hearsay. In so far as witness account at page No.75 is concerned, he has stated that after occurrence and happening of the incident in question, he saw Applicant and Accused No.2 running away from the incident spot.

5. The role attributable to the Applicant in question is that of inflicting a singular blow with the sword which he was carrying on the head of the First Informant – injured victim. The role attributable to Accused No.2 was of firing with the gun which he was carrying. In so far Accused No.3 is concerned, the role attributable to him is of harbouring the above two Accused persons after committing the offence. The injury certificate is appended at page No.39 of the Application. Perusal of the same *prima facie* shows that First Informant – injured victim received a blow on his left shoulder and has suffered a simple injury. The said injury certificate states that the blow was suffered by a blunt hard weapon like rod, stick, stone or it would also be due to a fall on hard ground.

6. Mr. Meshram, learned Advocate for Applicant would rely upon the injury certificate and persuade me to consider the role attributable to Applicant in the statement recorded by First Informant while lodging the First Information Report and submit that considering long incarceration of Applicant and sufferance of simple injury by First Informant – victim on his shoulder and not on his head as alleged in the First Information Report, Application be considered by the Court for allowing him on bail.

7. In so far antecedents are concerned, learned APP has informed the Court that there are 21 antecedents against Applicant.

She has also fairly informed the Court after the incident occurred the sword was dropped on the spot by Applicant because in retaliation and in self – defence the First Informant - injured victim and his friends picked up pieces of stone tiles which were lying on the ground and inflicted a blow with the same on the Applicant's head. Though learned APP has submitted due to antecedents release on bail of Applicant would be imminent threat to the Society / area, but what sways the case of Applicant is his long incarceration since 22.12.2021 pending trial. Considering the role attributed to the Applicant in the present case, I am inclined to exercise my discretion in view of his long incarceration and release him on bail subject to following 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 a.m. to 12:00 p.m. for the first three months after release 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 cancellation of this order;

- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vi) Applicant shall not enter in the jurisdiction of RCF, Mahul, Chembur, Govandi, Chunabhatti and Wadala Police Stations till the completion of trial;
- (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 prosecution to apply for cancellation of this order.

8. The aforesaid observations are *prima facie* on the basis of record of the case which have 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.

9. Bail Application is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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