

Ajay

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

CRIMINAL BAIL APPLICATION NO. 4993 OF 2024

Jannzeb Saleem Khan	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. Moin Khan, Advocate for Applicant.
 - Mr. Sukanta A. Karmakar, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 12, 2025.

P.C.:

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

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R. No. 179 of 2024 registered with RAK Marg Police Station for offences punishable under Sections 333, 353, 309, 504 and 506 of the Indian Penal Code, 1860 (for short “**IPC**”). Applicant is in custody since 12.04.2024.

3. Briefly stated it is the prosecution case that on 12.04.2024 Applicant approached RAK Marg Police Station for lodging complaint regarding his missing mobile phone which was lost on 11.04.2024 while traveling in the local train from Sewree to King Circle. As the

mobile was lost while travelling in a local train, Applicant was asked to approach Wadala Railway Police Station, pursuant to which Applicant left the premises of RAK Marg Police Station. It is the prosecution case that after sometime, Applicant again approached RAK Marg Police Station and insisted on his demand to file complaint and insisted the police officers to take action on his complaint and as he persisted and started hurling abuses, the police officers called his brother to the police station to take the Applicant home and make him understand that RAK police station could not take action on his complaint. It is stated in the FIR that thereafter Applicant left the premises of the police station alongwith his brother and again after sometime Applicant came to the police station and suddenly hit the first informant on his nose by fist blows and banged his own head on table to commit suicide and threatened the police officer of false implication for his death. Hence the FIR was lodged against Applicant.

4. Mr. Khan, learned Advocate for Applicant would submit that Applicant is falsely implicated in the case and has no connection with the present crime. He has drawn my attention to the medical history narrated by the first informant – victim at the time of his medical examination at KEM Hospital wherein he has stated that his injury was inflicted by an unknown person. Juxtaposed with the same he would now draw my attention to the statement of first informant in FIR wherein he has specifically attributed the injury to be inflicted by the

Applicant. He would thus submit that the indictment of the Applicant is an afterthought curated in order to settle scores against the Applicant as he was making an imperative command from the Police Officers to retrieve his property that was not lost in their jurisdiction. He has next drawn my attention to another discrepancy between the medical record and the FIR with respect to the timing of the alleged incident. He would reiterate on his foregoing submission to contend that the injury, although undisputed is a result of another incident and is being used against the Applicant.

5. He would further submit that out of all the witnesses none are independent and all 12 witnesses are police officials. He would further submit that there were many CCTV cameras affixed at the incident spot but no CCTV footage has been retrieved by the prosecution and brought on record in support of their case. He would submit that there is absence of *prima facie* evidence for indictment of the Applicant which clearly shows that the prosecution has arrested the present Applicant due to pressure and there is nothing on record to connect him with the alleged crime.

6. He would submit that investigation of the matter is completed and charge-sheet has been filed. He would submit that there are no criminal antecedents against present Applicant and he is a permanent resident of Mumbai and hence there is no question of him

absconding from trial. Hence he would pray for grant of bail to the Applicant on terms and conditions deemed fit by the Court.

7. Mr. Karmakar, learned APP has vehemently opposed the grant of bail to Applicant. He would submit that the injury meted out to the first informant by Applicant is a grievous injury which is evident from the medical report of first informant who was deputed on duty at that time. He would further submit that Applicant also attempted to commit suicide by banging his head on the table and threatened the police officials for false implication which is a serious crime committed against the police personnel. He would submit that there is sufficient material on record for indictment of Applicant and hence would urge the Court to reject his Bail Application.

8. From the record of the case it *prima facie* appears that Applicant is a 23 year old boy who lost his mobile phone while travelling and was naturally worried since mobile phones in today's time is considered as an essential more importantly among youngsters. It is seen that Applicant went to the Police Station to lodge a complaint and what transpired in the Police Station is emanating from the FIR which is the version of the first informant. It is seen that Complainant is a Police Inspector who accused the Applicant of assault causing grievous hurt. The said incident is of more than a year ago, though *prima facie* Medical Certificate is placed on record wherein it is stated

that Applicant banged his head and threatened to commit suicide. Considering the situation where Applicant was found to have lost his mobile phone and was worried about the same, benefit of doubt should be given as trial will ultimately determine the matter. It is seen that prosecution desires to examine 12 witnesses however all are interested witnesses.

9. *Prime facie* it is seen that Applicant's name is mentioned in the FIR however the injured first informant while narrating medical history before treatment has stated the injury is caused by an unknown person. It is seen that there is a clear dichotomy in the case of prosecution. Hence, Applicant's incarceration is unwarranted considering his age and circumstances in which he finds himself. Being a young offender and his incarceration for more than 1 year in prison might lead him to the path of criminality which needs to be avoided instantly and a chance is to be given to him to integrate back in the society and continue to lead a life as a good citizen.

10. In view of the above facts considering that the trial in the present case is yet to commence and there is no possibility of its completion in the foreseeable future, I am inclined to exercise the discretionary power of this Court and release the Applicant on bail.

11. In view of the above observations and the incarceration of Applicant for more than 1 year, I am inclined to grant bail to the

Applicant. Hence, the following order:-

(i) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one or two sureties of the like amount;

(ii) Applicant shall report to the Investigating Officer at the concerned Police Station as and when called by the Investigating Officer;

(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 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, as applicable; and

(vii) Any infraction of the conditions shall entail prosecution to apply for cancellation of bail granted to the Applicant.

12. It is clarified that the above observations in this order are limited for the purpose of granting bail only and I have not made any observations on the merits of the case and the trial shall proceed uninfluenced by the present order.

13. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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