

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5270 OF 2024

Rashid Noor Mohd Shaikh @ Arbaz Chati .. Applicant

Versus

The State of Maharashtra .. Respondent

-
- Mr. Arif Khan a/w Ms. R. Shaikh & Ms. Shilpa Sharma for Applicant
 - Ms. Rajeshree V. Newton, APP for State
 - Mr. Jagdale, PI, ACB, Ghatkopar Police Station is present
-

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 14, 2025

P. C.:

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

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.P.C.**") in connection with Crime No. 861/2020 registered with Ghatkopar Police Station for the offences punishable under Sections 307, 504, 506 read with 34 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. Applicant before me is arraigned as accused No. 2 in the present crime. His name is Rashid Noor Mohd. Shaikh @ Arbaz Chati. Accused No. 1 is Nadeem and accused No. 3 is Irfan. Date of the incident is 10.12.2020. First informant is Sameer Ahmed Shaikh who

is the injured victim. Apart from the first informant, three other persons were also injured. One of them being Sachin Dalvi @ Justin. Role of accused No. 3 accused is clearly defined in the incident. Due to the previous enmity, three accused persons visited the house of one Jafar in Chawl No. 12, Indira Nagar, Golibar Road, Ghatkopar (W) when the Haldi function of one of the resident's daughter was going on in the evening on the date of the incident. Three accused came to the incident spot and were looking for Jafar upon which Jafar's mother locked him inside the house in order to prevent Jafar facing the ire of the three accused who were armed with weapons. Applicant had a sword, accused No. 1 Nadeem had a chopper and accused No. 1 Nadeem was armed with बर्फ फोडण्याचा टोचा. They all were searching for Jafar. At that time first informant Sameer along with four friends staying in the same area who had come to attend the Haldi function namely Sachin Dalvi @ Justin, Rafiq Dilawar Shaikh and Irfan Aayub @ Monu came to the incident spot. Sameer Shaikh asked the accused persons as to what had happened upon which the accused persons started abusing them. There was a verbal altercation between the accused on one hand and those who had gathered on the other hand. That verbal altercation escalated into an assault by the accused persons. Description of assault in the FIR is precise in so far as the role of all three accused is concerned. Accused No. 1 Nadeem was

carrying a chopper and he first inflicted blow with chopper on the neck of the first informant as also on his friend Irfan @ Monu and threatened them with life. At the same time, accused No. 3 Irfan @ Panna also started inflicting blows with बर्फ फोडण्याचा टोचा on those who had gathered at the spot. In so far as the role of present Applicant is concerned, he was carrying a sword and with the same he was seen threatening the people. Infliction of one specific blow of his sword on the first informant is stated in the FIR. Injury certificate is appended at page No. 68 of the Application which when seen qualifies the said injury inflicted by Applicant as a simple injury caused by a blunt object on the injured victim called Sachin @ Justin. Witness statement appended to the Application has described the specific role of accused Nos. 1 and 3 in inflicting several blows with chopper and बर्फ फोडण्याचा टोचा. However in so far as the Applicant before me is concerned, infliction of single blow on one of the member is what is stated in the statement annexed with the FIR. The injury certificate of the other injured victims are appended to the Application. However the injury inflicted on them is by accused Nos. 1 and 3 are grievous injuries as can be seen.

4. In view of the above, the role of Applicant before me being of a threatening nature and his act of inflicting a singular blow and injuring one of the person gathered i.e. Sachin Dalvi @ Justin is the

only role which is attributed to him. Applicant has no antecedents. At the time of crime, he was 23 years old. He has been incarcerated for the past 4 years and two months.

5. Ms. Newton, learned APP would submit that the weapon used by the Applicant is a sword and his act of threatening is clearly seen from the FIR lodged which was a catalyst in commission of the crime by the three accused accused together. She would therefore submit that the act of the Applicant is a heinous act which should not be pardoned by the Court as the motive of accused is borne out from their action. On the issue of slow pace of trial, she would submit that the trial has just commenced but she does not have the details regarding how many witnesses the prosecution desires to examine at this stage.

6. In view of the above and considering the specific role of the Applicant of inflicting a singular blow which is distinct *qua* the role of the other two accused, his long incarceration and slow pace of the progress of the trial, I am inclined to allow the present Application subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25000/- with one or two sureties in the like amount;

- (ii) Applicant shall report to the Investigating Officer of concerned Police Station on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months 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. He shall deposit his passport, if any, within two weeks after being released on bail with the Trial Court;
- (v) Applicant shall not influence with 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;
- (vii) Any infraction of the above conditions shall entail cancellation of this order.

7. It is clarified that the 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.

8. Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]

Amberkar

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
Date:
2025.02.14
15:25:18 +0530