



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.5326 OF 2024**

Badruddin Samsuddin Khan	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Zoheb Shaikh, for Applicant.
Mr. Y.Y.Dabke, APP for State.
PSI G.N.Gaikwad, Dharavi Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 1 APRIL 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in Sessions Case No.270 of 2023 arising out of C.R.No.1326 of 2022 registered with Dharavi Police Station, for the offences punishable under Sections 302 and 504 of the Indian Penal Code, 1860, has preferred this application to enlarge him on bail.
3. Mohd. Nakib (deceased) was the brother of Taquiralam Abdul Sattar, first informant. The deceased was working in a tailoring workshop of Chand Alam Shaikh. The Applicant, Mohd. Kahlid, Mohd. Ilyas and Mohd. Faizal were also working in the said workshop. On 2 December 2022, there was an altercation between the deceased and the applicant over the work of overlocking of the stitched clothes. The applicant allegedly stabbed the deceased by means of scissors, which the applicant had. The deceased raised a loud

cry. The other workers witnessed that the applicant had stabbed the deceased. Eventually, Mohd. Nakib succumbed to his injuries. Upon being apprised, the first informant lodged report.

4. Learned Counsel for the Applicant submitted that it was a freak incident. An endeavour was made to show that while the applicant and deceased were engaged in a friendly banter, the deceased fell on the scissors and thereby sustained injuries. Reliance was sought to be placed on the statement of the owner of the tailoring workshop to bolster up a case that the applicant and the deceased were engaged in a banter and the deceased fell on the scissors, accidentally.

5. Mr. Shaikh further submitted that, at any rate, the act may not fall within the dragnet of the offence punishable under Section 302 of the Code, 1860. The applicant has been in custody for over 25 months, and, therefore, the applicant deserves to be enlarged on bail.

6. Mr. Dabke, learned APP, resisted the prayer for bail. It was submitted that there are eye witnesses who have consistently stated that the applicant had picked up the scissors and assaulted the deceased. Inviting attention of the Court to the statements of the eye witnesses / co-workers recorded under Section 164 of the code, learned APP urged that the theory of freak incident or that the deceased had accidentally fallen on the scissors is completely ruled out.

7. I have perused the report under Section 173 of the Code, 1973 and the documents annexed with it, and the statements of the witnesses recorded under Section 164 of the Code. Post-mortem report indicates that the deceased had suffered a deep stab injury on the left hypochondria region. The weapon had pierced the internal organs.

8. Prima facie, the PM report indicates that the injury was not accidental. In addition, the statements of the co-workers indicate that there was an altercation between the applicant and deceased and the applicant had stabbed the deceased by means of scissors. Co-workers had opportunity to witness the incident. There is an element of consistency in the statements of the co-workers.

9. Reliance by Mr. Shaikh on the statement of Chand Alam Shaikh, who was running the said tailoring workshop, prima facie, does not appear to be of much assistance as the source of the said version of accidental fall on the scissors has been attributed to the applicant himself, and not the eye witnesses to the occurrence.

10. The applicant appears to have also made discovery leading to the recovery of the scissors. Thus, prima facie, the ocular account finds support in the medial evidence and the circumstantial evidence.

11. In these circumstances, having regard to a strong prima facie case and, especially, the fact that the eye-witnesses are the co-workers of the applicant

and, thus, the apprehension on the part of the prosecution of tampering with evidence and threatening the witnesses cannot be said to be unfounded, I am not inclined to exercise the discretion in favour of the applicant.

12. Hence, the application stands rejected.

13. By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

(N.J.JAMADAR, J.)