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

CRIMINAL BAIL APPLICATION NO. 1687 OF 2025

Vishal Dharmendra Sharma

Applicant

.. (Accused No.3)

Versus

The State of Maharashtra

.. Respondent

CRIMINAL BAIL APPLICATION NO. 490 OF 2025

Shubham Arvind Singh

Applicant

.. (Accused No.5)

Versus

The State of Maharashtra

.. Respondent

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- Mr. Shambhu Jha a/w. Mr. Afsar Ansar, Advocates for Applicant in Bail Application No. 1687 of 2025.
- Mr. Vishal V. Rankhambe a/w. Ms. Aparna V. Rankhambe a/w Mr. Chaitanya M. Bagul, Advocates for Applicant in Bail Application No. 490 of 2025.
- Ms. Rajeshree V. Newton, APP for Respondent – State in Bail Application No. 1687 of 2025.
- Mr. Sukanta A. Karmakar, APP for Respondent – State in Bail Application No. 490 of 2025.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 08, 2025.

P.C.:

1. Heard Mr. Jha, learned Advocate for Applicant in Bail Application No.1687 of 2025; Mr. Rankhambe, learned Advocate for Applicant in Bail Application No.490 of 2025; Ms. Newton learned APP for Respondent – State in Bail Application No. 1687 of 2025 and Mr. Karmakar learned APP for Respondent – State in Bail Application No.490 of 2025.

2. This is a group of two Applications under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Regular Bail in connection with C.R.No. 610 of 2024 and C.R. No. 611 of 2024 registered with Tulunj Police Station for offences punishable under Sections 109, 115, 135, 189, 190 and 191 of the Bharatiya Nyaya Sanhita, 2023 (for short '**BNS**'). Applicant in Bail Application No. 1687 of 2025 is arraigned as Accused No. 3 and he is arrested on 27.08.2024. Applicant in Bail Application No. 490 of 2025 is arraigned as Accused No. 5 and he is arrested on 21.09.2024. Both bail Applications are disposed of by this common order for brevity.

3. Briefly stated incident took place on 24.08.2024. According to prosecution case, on 22.08.2024 at around 10:00 p.m. in the night a dispute / quarrel occurred between First - Informant's sister and one Shiva a local resident supplying water wherein she was allegedly abused by Shiva under the influence of alcohol. First - Informant when being informed about the same he alongwith his brother Salim confronted Shiva. Salim slapped him thrice leading to intervention of his mother and families of both sides. The issue was settled amicably on that night itself by both families. However on the following day i.e. on 23.08.2024 in the evening First - Informant received a threatening call from Shiva's friend one Aakash Pal (co-accused) asking First - Informant to meet him in the vicinity because of the previous day's

incident. These are the two precursor incidents prior to the present crime in question. On the following day i.e. 24.08.2024 First - Informant accompanied Salim and other family members and confronted Shiva's friends – Aakash Pal, Dipu, Sahil and two Applicants before me. It is prosecution case that a verbal altercation ensued between them for sometime resulting in a free fight between the two groups. According to prosecution one of the accused person in the present crime Dipu, inflicted a knife blow on Salim's head whereas Aakash Pal (another co-accused) stabbed him in the abdomen and Shubham (Applicant – co-accused No.5) stabbed him in the back. Insofar as Vishal (Applicant – Accused No.3) and Sahil are concerned according to prosecution case they participated in the incident by raining fist and kick blows on members of the rival group.

4. In the said incident Salim received injuries as also members of both groups received simple and grievous injuries after which they were rushed to the hospital for treatment. Cross FIRs were lodged. Present FIR No. 611 of 2024 is lodged by First – Informant (Rafiq). Simultaneously FIR No. 610 of 2024 is lodged by Police Amaldar wherein Rafiq and injured victim Salim are named as accused having assaulted rival members by weapons.

5. Mr. Jha, learned Advocate represents Applicant – Accused No. 3 whereas Mr. Rankhambhe, learned Advocate represents

Applicant – Accused No. 5. They both have taken me through the various witness statements recorded by prosecution to highlight specific role attributed to Applicants and argued that when the same are perused it would be clear and *prima facie* evident that apart from mere presence of Applicants during the verbal altercation which ensued between the rival groups and taken at the highest the role attributed to Applicant is only to the extent of they having inflicted fist and kick blows in the free fight which had taken place.

6. Both learned APPs appearing in the Applications in unison would persuade me to consider the gravity of crime, injury received by victim and conduct of Applicants along with their friends who gathered at the incident spot with a pre-conceived intent and notion to harm First – Informant’s brother who had slapped one of their friend - Shiva two days ago. Learned APPs would persuade me to consider the fact that intent of Applicants to commit the crime with dangerous weapon is *prima facie* evident since one of the accused person had called First – Informant’s brother to the incident spot and dared him on the previous night. It is prosecution case that some of the accused persons were armed with dangerous weapons. Hence both learned APPs would urge the Court to reject both Applications.

7. I have heard the Advocates appearing for Applicants, learned APPs and considered the rival submissions and perused the record of

the case.

8. Insofar as the facts delineated herein above are concerned there is no material dispute and they are *prima facie* admitted. Entire case of prosecution is based upon witness statements recorded of the prosecution witnesses belonging to either side as well as neutral witnesses who witnessed the incident in question. Admittedly the incident in question was a free fight between two rival groups wherein it is observed from record that members of both rival groups received several injuries including grievous injuries to members of both sides. Prosecution has recorded witness statements of 14 witnesses which are relied upon in the present crime. Witness statement of First – Informant (Rafiq) is appended at page No. 16 of Bail Application No. 1687 of 2025. For sake of convenience I will refer to witness statements of witnesses qua both Applicants as appended to Bail Application No. 1687 of 2025.

9. All that First - Informant Rafiq has stated about both Applicants is that they assaulted First - Informant after the verbal altercation between them. No specific role is assigned by First - Informant as such to either of them. However witness statement of independent witness – Arvind Gupta (pan shop owner) appended at page No. 77, when read shows that before the alleged physical altercation having taken place one of the accused person had a severe

verbal altercation on the phone hurling abuses probably on the rival side, which was witnessed by him. Thereafter he has stated that other persons were summoned and they arrived at the incident spot on their motorcycles which led to the altercation and incident.

10. Insofar as injured victim Salim is concerned he has recorded three statements one dated 31.08.2024 appended at page No. 88; second statement recorded on 17.10.2024 appended at page No. 90 and his Section 164 statement recorded on 18.10.2024 appended at page No. 92 of the Application. All that he has stated in these three statements which is common is that an altercation took place between the two rival groups. He has not attributed any specific role to either of the two Applicants having injured him in all three statements and most importantly his three statements do not corroborate the allegations set out in the FIR filed by his own brother Rafiq i.e. First - Informant. This is primarily because Salim and Rafiq both are accused persons in the companion cross FIR having being accused of grievously injuring rival group members namely both Applicants with dangerous weapons, with Applicant - Accused No. 5 having been grievously injured.

11. What is intriguing is the fact that Applicant – Accused No. 5 received a stab injury at the side of his back which was grievous in nature for which he also underwent hospitalisation for 22 days, which

is evident on perusal of Injury Certificate appended at page No. 136 of the Application. Insofar as witness statements referred to and relied upon by prosecution is concerned, ten (10) co-accused persons in FIR No. 610 of 2024 have recorded their statements which are appended from page No. 97 onwards and when all these ten (10) statements are read there is one common thread which runs through the said statements namely that role attributed to Applicant – Accused No. 3 before me is that he was present alongwith others and participated in the free fight with his hands and legs (ढोश्या बुक्क्याने व लाथाबुक्क्याने मारहाण केली आहे).

12. Record also shows that one of the Applicant – Accused No. 3 is a 19 year old college going student who had just passed his HSC Examination from Maharashtra State Board in the year 2024 and thus considering role attributed to him, I am inclined to consider his Bail Application for grant of bail.

13. Considering the above and Applicants before me receiving substantial injuries, specific role attributed to Accused No. 3 and the fact that Accused No. 5 sustaining grievous injuries which is *prima facie* evident from the record of the prosecution case, I am of the opinion that both Applicants can be released on bail.

14. In view of my above *prima facie* observations and reasons both Bail Applications are allowed on the following terms and

conditions:-

- (i) Both Applicants are directed to be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- (ii) Both Applicants are permitted to furnish provisional cash bail of Rs.15,000/- for their release immediately and file undertaking that they will provide one or two sureties in the like amount of Rs.15,000/- within a period of four weeks after their release which shall be accepted by the Trial Court. Applicants shall provide sureties as directed;
- (iii) Before their actual release from jail, Applicants shall furnish their address where they propose to reside after their release from jail to the concerned Police Station and also to the trial Court;
- (iv) After their release from jail, Applicants shall report to the Investigating Officer as and when called for;
- (v) Applicant - Accused No.3 shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence until completion of trial. If the first Tuesday of the said month falls on a holiday

and / or non Court working day, Applicant shall mark presence on the next working day;

(vi) Applicant - Accused No.5 shall attend the trial Court on first Friday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence until completion of trial. If the first Friday of the said month falls on a holiday and / or non Court working day, Applicant shall mark presence on the next working day;

(vii) Applicants 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 they do so, it will entitle the prosecution to apply for cancellation of this order;

(viii) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;

(ix) Applicants shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(x) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

15. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

16. Both Bail Applications are allowed and disposed.

[MILIND N. JADHAV, J.]