

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 519 OF 2025

Kedar @ Om Rajan Malusare

.. Applicant

Versus

State Of Maharashtra

.. Respondent

.....

- Ms. Afreen Shaikh, Advocate for Applicant.
- Ms. Savita M. Yadav, APP for State.
- PSI-Sopan Bhagwat Wadkar, Sakinaka Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 01, 2025

P. C.:

1. Heard Ms. Shaikh, learned Advocate for Applicant and Ms. Yadav, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 1060 of 2023 registered with Sakinaka Police Station for the offence punishable under Sections 307, 452, 141, 143, 144, 146, 147, 148, 149, 323, 504, 506(2) of the Indian Penal Code, 1860, under Sections 4, 25 of the Arms Act, 1959 and under Sections 37(1) and 135 of the Maharashtra Police Act, 1951.

3. Applicant is indicted and arrayed as Accused No.6 in the aforesaid crime. In total there are 6 Accused persons involved in the

crime. Learned Advocate for Applicant would inform the Court that Accused Nos.1 to 5 have already been enlarged on bail.

4. At the outset, Ms. Shaikh would draw my attention to the order dated 27 January, 2025 passed by this Court in Bail Application No.2380 of 2024 appended at page No.68 of the Application enlarging Accused No.1 on bail. She would submit that role of the present Applicant - Accused No.6 is far lesser and in fact it is reflected by the Court while dealing with the Bail Application of the main Accused i.e. Accused No.1.

4.1. She would draw my attention to paragraph No.4 of the order dated 27th January, 2025 to highlight the role attributable to the present Applicant. It is stated therein that Applicant has undoubtedly accompanied the principal Accused No.1 after the precursor incident and entered the hotel and behaved in a manner to create terror by damaging the furniture and kitchen counter inside and outside of the hotel. She would persuade the Court to consider the CCTV footage appended to the panchanama dated 22.12.2023 which is comprising of 6 video files and which has graphically enumerated the incident in question.

5. Ms. Yadav, learned APP would persuade the Court to consider the role attributed to the Applicant even though the other

accused having been enlarged on bail considering the fact that victim was in fact injured by virtue of infliction of blows on him by Accused No.1 and his accomplices including Applicant - Accused No.6.

6. After having considered the rival submissions and on perusal of the record it is *prima facie* seen that witness statements which are indicting the role of the Accused persons namely that of Aamir Shakir dated 16.11.2023 has been recorded after 3 days of the incident whereas statement of one Mohammad Anis Khan is recorded after 4 days of the incident. Both the witnesses have *prima facie* stated the version of the actual incident which took place inside the hotel and have stated that the act attributed to the present Applicant who was the part of the mob led by Accused No.1 was that he caused damage to the furniture inside and outside the hotel. The witnesses have stated that while leaving the accused persons threatened the victim and his hotel staff. Witnesses have also stated that persons who left the incident spot were armed with sword, Iron Tikav (कुदाळ) and wooden bamboo sticks, but Applicant was armed with the Iron Tikav.

7. Considering the version of the First Informant as stated in the FIR and witness statements which were recorded belatedly there is *prima facie* dichotomy noticed by the Court and since bail has been granted to all other co-accused persons, the Applicant has made out a case for bail on parity.

8. Hence, Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing PR. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

(v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 01.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(vi) 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;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

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

(ix) 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.

9. 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.

10. Bail Application is allowed and disposed.