

Ajay

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

CRIMINAL BAIL APPLICATION No.890 OF 2025

Mahesh Balu Kate

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Rajendra Rathod a/w. Ansari M. Siraj, Advocates for Applicant.
- Mr. Umar Dalvi i/b Mr. Aamir Koradia, Advocates for Complainant.
- Ms. Shilpa K. Gajare – Dhumal, APP for State.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 17, 2025

P. C.:

1. Heard Mr. Rathod appearing on behalf of Applicant; Mr. Dalvi, learned advocate appearing on behalf of Original Complainant; Ms. Gajare – Dhumal, learned APP appearing on behalf of State.

2. The Applicant in the present case is arraigned in C.R. No.401 of 2024 registered with R.A.K. Marg Police Station for offences punishable under Sections 109, 115(2), 118(2), 189(2), 189(3), 189(4), 190, 191(1), 191(2) of BNS and Section 135, 37(1) of the Maharashtra Police Act, 1951.

3. Date of alleged incident is 14.10.2024. Applicant is arraigned in the crime along with 5 other co-accused and 2 unknown persons. First Informant is Nitin Vishnu Shinde, he is arraigned as

accused in C.R. No.400 of 2024 where Applicant herein is the First Informant – Complainant.

4. Case of Applicant is that pursuant to the incident in question he himself lodged FIR No.400 of 2024 with respect of the same crime against the First Informant Complainant. That apart, the Applicant had also lodged a previous FIR No.379/2024 in the same Police Station in the previous month on 21.09.2024 against the First Informant Complainant and his accomplices for assaulting the Applicant.

5. Mr. Rathod would submit that FIR in the present case namely FIR No.401 of 2025 is filed 12 hours after the lodging of FIR No.400 of 2025 by the Applicant against the First Informant Complainant. He would submit that the Applicant himself was previously injured in the said incident having been assaulted by the First Informant Complainant Nitin Vishnu Shinde and his accomplice Kalpesh Pathare with a deadly weapon i.e. Knife. He would submit that present FIR No.401 of 2024 is thus a counterblast to FIR No. 400 of 2024 and is filed as a complete afterthought by the First Informant – Complainant.

6. I have heard the submissions by the learned Advocates at the bar and with their able assistance, perused the record of the case.

Prima facie it is seen that the present case is a case of cross FIRs filed by two groups after having clashed with each other. Record clearly shows that some of the accused persons in both groups used weapons namely wooden rods and knives against each other. Injury certificate appended to the chargesheet shows that Applicant was injured in the scuffle. That apart, it is seen that the Sessions Court has released the First Informant and his accomplice co-accused on bail by order dated: 26.11.2024. The learned advocate for Complainant has filed an affidavit dated 25.02.2025 for consideration of the Court giving his No Objection for allowing the present Application on the ground of amicable settlement of the dispute between the parties. I have perused the affidavit.

7. Record shows that Applicant is a driver by profession and the scuffle between the parties led to injuries been suffered by Accused persons from both the groups including the Applicant and First Informant. First Informant is an accused in the crime registered by Applicant for the same offence. That apart, Applicant is the sole bread winner of the family and has deep roots in the society and considering his young age of 30 years and the aforementioned *prima facie* observations, he is released on bail on the following terms:-

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

- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and
- (viii) 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.

8. 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.

9. Bail Application No.890 of 2025 is allowed and disposed.

[MILIND N. JADHAV, J.]

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