

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

BAIL APPLICATION NO. 1384 / 2021

Aslam Haroon Sayyed

.....**Applicant**

V/s.

The State of Maharashtra

....**Respondent**

* * * *

Mr. Arun Rajput i/by. Ms. Shabnam Shaikh,
Advocate for the applicant.

Mrs. P.P. Shinde, APP for State.

CORAM : SANDEEP K. SHINDE, J.
(through Video Conference)

Monday, 31st May, 2021.

P.C. :

1. Applicant seeks his enlargement on bail in connection with Crime No. 695/2020 registered with Kurar Police Station for the offences punishable under Sections 307, 324, 504, 506 read with Section 34 of the Indian Penal Code.

2. Investigation in the case is over and the chargesheet has been filed.

3. Heard learned Counsel for the applicant and learned APP for State. Investigating Officer is present. His say is taken on record and marked "X-1" for identification.

4. Enmity between the applicant and the complainant is evident, as two crimes, viz Crime No.449/2019 and Crime No.22/2020 being registered at the instance of complainant's mother against the applicant.

5. Complainant (injured) alleged that, on 17th August, 2020 in the wee hours while he was riding the motorcycle, applicant and co-accused intercepted and assaulted him by iron tommy and a knife. Complainant alleged, the applicant inflicted knife blows on his back and

head; whereas, the co-accused dealt blows of iron tommy on his head, chest and back. Evidence shows, the complainant was taken to Municipal Hospital, where after examining him, two simple injuries were found on his person. Injury report fortifies this fact. Whereafter, complainant was removed to Khushi Hospital at Malad at 5.30 a.m. Medical Officer attached to the said Hospital, found multiple contusions on chest, both lower limbs and CLW on scalp on right tempo occipital region and another CLW on both scapular region and mid-scapular region measuring 4-6 cm. long and 2-3 cm. deep. In the course of investigation, weapons i.e. iron tommy and a knife (described as “nail-cutter”) were also recovered at the instance of the applicant from the open place. I have perused the investigation record.

7. It may be stated that, the co-accused were granted bail by this Court vide order dated 9th March, 2021.

The role attributed to the co-accused is similar to the role attributed to the applicant herein. The only difference is that, the co-accused allegedly inflicted blows by iron tommy; whereas, it is alleged that the applicant inflicted knife blows. Be that as it may, when the complainant was taken to the Hospital of Municipal Corporation, Medical Officer found two simple injuries on his person; whereas, Medical Officer at private hospital certified two, distinct grievous injuries. Additionally, when enquired, the Investigating Officer could not apprise as to for how many days, the applicant was admitted in the private hospital. Seemingly therefore, Medical Certificate of private hospital relied on by the prosecution, is required to be kept out of consideration, atleast at this stage and in these proceedings. Had he suffered injuries as found by Medical Officer at private hospital, injured was expected to be treated further. Be that as it may, the applicant is in custody for nearly nine months. The two crimes at his

discredit were registered by the mother of the complainant.

It may also be noted that, there are no other offences registered against him. The co-accused have been released on bail. The trial may not commence in the near future. In the circumstances, in my view, case is made out for releasing the applicant on bail. The application is allowed and hence the following order :

ORDER

(i) The applicant arrested in Crime No.695/2020 registered at Kurar Police Station, shall be released on bail on executing P.R. bond for the sum of Rs.30,000/- (Rs.Thirty Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Kurar Polcie Station twice a month i.e. second and fourth Monday of each month between 11:00 to 1:00 p.m.

commencing from June, 2021 till the charge is framed and co-operate in the investigation.

(iii) The applicant shall not stay in the same locality where the complainant resides. As such, the applicant shall not stay within the jurisdiction of Kurar Police Station.

(iv) The applicant shall furnish particulars of his new residential address and contact number to the Investigating Officer within a week of his release from jail.

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

9. The application is accordingly allowed and disposed off.

10. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

(Sandeep K. Shinde, J.)