

Imran Khan Karim Khan Vs State Of Maharashtra

Court: Bombay High Court

Date of Decision: Dec. 13, 2021

Acts Referred: Code Of Criminal Procedure, 1973 " Section 439

Indian Penal Code, 1860 " Section 34, 120(B), 143, 147, 148, 149, 212, 302, 307, 323, 324, 427, 452, 504, 506

Arms Act, 1959 " Section 4, 25

Hon'ble Judges: V. G. Bisht, J

Bench: Single Bench

Advocate: Ujwal R. Agandsurve, H. J. Dedhia

Final Decision: Dismissed

Judgement

V. G. Bisht, J

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.172 of 2018 registered

with Police Station Manmad, Nashik, for offences punishable under Section 302, 120(B), 307, 324, 323, 452, 143, 147, 148, 149, 504, 506, 427, 212, 34

of the Indian Penal Code (IPC) along with Section 4/25 of Arms Act.

2 It is the case of prosecution that informant's husband namely, Sameer Shaikh (Papya) (since deceased) had a business of tea stall at Manmad

Railway Station. For many years there was enmity / dispute over tea stall business between Iliyas Ismail Sayyed, Irfan Ismail Sayyed, Imran Ismail

Sayyed, Ismail Musal Sayyed along with nephew Irfan Momin. These persons had a small quarrel over some issue of children on 20th September

2018 around 11.45 p.m.

3 On 25th September 2018 at about 10.00 p.m., informant, her husband and children were taking dinner. All of a sudden the informant heard some one

shouting and abusing deceased. It is further alleged that accused namely Irfan Ismail Sayyed and other 15 accused named in the First Information

Report (FIR) along with 15 to 20 persons armed with sticks, swords, choppers, iron pipe, rods started assaulting the deceased on his head, hands and

legs. When the nephew of deceased tried to intervene and save the deceased, he was also assaulted. Those accused also beat people who were seen

outside and vandalized and destroyed vehicles outside the house. Thereafter, they fled away in vehicles.

4 Mr. Agandurve, learned counsel for the applicant, submits that in all there are 34 accused of which the applicant is at serial No. 13. Learned Counsel

invited my attention to the contents of FIR and submitted that except general allegations there is nothing against the applicant. The investigation is

over. Charge-sheet has been filed. In such circumstances, applicant deserves to be enlarged on bail.

5 Mr. Dedhia, learned APP, on the other hand, opposed the submissions by contending that there are eye witnesses who clearly point out the

involvement of the accused in the offence. There being no merit in the application, the same is liable to be rejected.

6 Perused the investigation papers including the FIR. The present applicant is at serial No. 13 and according to informant, the applicant along with

other accused was armed with deadly weapons like sword, chopper, iron rod, sticks. It is further stated that all the accused including the applicant had

assaulted her husband by weapons and also caused damage to the property. Thus overt act is clearly attributed on the part of the applicant. This being

so, the role of the applicant is quite distinguishable from the accused Ilias Ismail Sayyed who has been released on bail by this Court. Moreover, the

present applicant is also named by the prosecution witnesses, namely, Arbaj Abdul Waahad Shaikh, Javed Shaikh, Arifa Javed Waahad Shaikh, Shaikh

Jamir Abdul Wahid, Irfan Yakub Momin and Rahul Ambadas Sabale as an assailants. The allegations are indeed of very serious nature. Considering

the material on record, no case is made out for bail.

7 Hence, I pass the following order.

ORDER

Bail Application No. 497 of 2021 stands rejected and disposed of accordingly.