

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.237 OF 2015

Sohail Jakir Shaikh

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.K.S. Patil i/b C.S. Damre for the Applicant

Ms.A.A. Mane, APP, for Respondent – State

Mr.S.T. Vodhute, ASI, Manmad police station - present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **APRIL 13, 2015**

P.C.:

1. This is an application for bail as the applicant/accused is facing charges under sections 302, 323, 324, 504 and 506 of the Indian Penal Code and also under section 3(2)(5) of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989. The FIR is registered at the instance of one Shubham Kanhaiyalal Chuniyan, a resident of Manmad. It is the case of the prosecution that in the vicinity, where the complainant was residing, they were celebrating Ganapati festival and, therefore, all boys in the said vicinity used to assemble for prayers. On 6.9.2014, after prayers at around 7.30pm, suddenly the accused and the co-accused arrived there with weapons. The co-accused were holding knife and sickle and others with sticks. One accused, namely, Amin Patel, who was a Corporator,

stabbed Rahul, younger brother of the complainant, in the chest and Shoiab @ Monya, the brother of the applicant/accused assaulted Rahul with sickle. Thereafter, the applicants/accused and the others assaulted the complainant and other persons and suddenly in the kiosk, everybody started running. The complainant took his brother to the hospital. Rahul was taken to the hospital. At that time, he succumbed to the injuries. Hence, the offence was registered at C.R. No.155 of 2014 at Manmad city police station.

2. The learned Counsel for the applicant/accused submitted that at the time of rejecting his application, the learned Sessions Judge committed error in identifying the applicant/accused as his brother Shoaib Jakir Shaikh. The applicant/accused is Sohail Jakir Shaikh. The learned Counsel pointed out the relevant observations in the order passed by the learned Sessions Judge. He submitted that the applicant/accused is not attributed any specific role and if the supplementary statement of the complainant is considered, he has stated that the applicant/accused alongwith the other two accused i.e., Saddam Attar and Jakir Shaikh assaulted the complainant with kicks and fist blows and then he ran away. He submitted that the other two accused, who are attributed the same role, are released on bail by the Sessions Court and because of the confusion in the name, the application of the applicant/accused was rejected by the learned Sessions Judge.

3. Learned Prosecutor has opposed the application. She submitted that all the applicants/accused are facing charges under sections 302, 324 141, 149, 147, 144 r/w 34 of the Indian Penal Code.

4. Perused the order passed by the learned Sessions Judge. It appears that there is some confusion in the names of Shoaib Jakir Shaikh @ Monya, who was attributed mounting assault with weapon, and the present applicant/accused Sohail Jakir Shaikh. Also perused the FIR, supplementary statements of the complainant and the other statements. The role attributed to the present applicant and Saddam Attar and Jakir Shaikh is the same. They are granted bail on parity and therefore, I grant bail to the applicant/accused as under:

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/-, with one or two sureties in the like amount;
- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not indulge into any kind of offence and especially during the Ganapati festival, while on bail;
- iv) The Investigating Officer is directed to take special care during the Ganapati festival of 2015.

- v) The applicant shall attend on all the Court dates.
5. Bail application is disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)