

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 397 OF 2021

Sayed Mujahed s/o Sayed Mukhtar

Applicant

Versus

The State of Maharashtra

Respondent

Mr. A.N. Sabnis, Advocate holding for Mr. E.S. Murge, Advocate for the applicant.

Mr. S.D. Ghayal, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 2nd September, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail.

2. Facts leading to this application are that the brother of the informant by name Sayyad Jameer had loaned an amount of Rs.20,000/- to accused No. 1 Sayyad Jafar Sayyad Akhtar. Deceased was demanding the said amount from Sayyad Jafar Sayyad Akhtar i.e. accused No.1. On 9th July, 2020, at about 8.00 pm, the deceased went out of the house as he had received some calls. When the brother of the deceased i.e. informant went out of the house, he saw

that the applicant had held the deceased from behind. Accused Sayyad Jafar Sayyad Akhtar stabbed the deceased in the chest, accused No. 2 Sayyad Jafar Sayyad Issaq @ Ladya delivered a blow of iron rod on the head of the deceased. The deceased sustained injuries and he was shifted to the hospital, where he was declared dead. On performing Post Mortem, it was found that the deceased had two stab wounds. The role of the applicant is of holding the deceased from behind. On these allegations, offence under Sections 302, 201 read with Section 34 of the Indian Penal Code vide Crime No. 0415/2020 came to be registered with Nanalpeth Police Station, Dist. Parbhani.

3. Heard Shri Sabnis, learned counsel for the applicant and Shri Ghayal, learned APP for the State.

4. Learned counsel Shri Sabnis submitted that the role of the applicant is of holding the deceased from behind. Major role was of accused No. 1 Sayyad Jafar Sayyad Akhtar. Another major role was of Sayyad Jafar Sayyad Issaq @ Ladya who had delivered a blow of iron rod on the head of the deceased. He submits that the applicant is in jail since 10th July, 2020. He submits that considering

the role played by applicant and more serious role played by accused Sayyad Jafar Sayyad Issaq @ Ladya, on parity also, the applicant be released on bail.

5. Learned APP submitted that the applicant facilitated commission of crime of the offence. He submits that the applicant made the deceased defenceless. Therefore, the role of the applicant is equally serious as that of accused No. 1 Sayyad Jafar Sayyad Akhtar. He states that there is no parity between the applicant and the accused who is released on bail.

6. Admittedly, the applicant is in jail since 10th July, 2020. Charge-sheet has been filed. It is alleged that accused Sayyad Jafar Sayyad Akhtar had taken a loan of Rs. 20,000/- from the deceased and the deceased was demanding repayment of it. The applicant did not take any loan from the deceased. Therefore, the applicant had no enmity with the deceased. Moreover, accused who had delivered a blow on the head of the deceased causing incise wounds is released on bail. The applicant has no criminal antecedents. Nothing is placed on record by the prosecution to show that the applicant would not be available for trial. The applicant has his roots in the district.

Considering the pandemic situation, trial is not likely to be concluded in the near future. Having regard to this, by putting stringent conditions on the applicant, he can be released on bail.

Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand only) with two solvent sureties in the like amount, in connection with Crime No. 0415/2020 registered with Nanalpeth Police Station, Dist. Parbhani, for the offences punishable under Section 302 and 201 read with Section 34 of the Indian Penal Code.
- iii) The applicant shall not reside at Parbhani City till the conclusion of the trial and he is allowed to enter Parbhani City only for the purpose of attending dates in respect of the present case.
- iv) The applicant should inform his place of residence till the trial is over to the trial Court as well as the Investigating Officer and also to the nearby police station, where he would be residing. He shall furnish his mobile number to the Court, Investigating Officer and the nearby police station.

v) The applicant to comply the requirements under Para 12 (1) to (6) of Chapter I of Criminal Manual before the trial Court (whichever are applicable.)

vi) The applicant shall not indulge in any criminal activity.

vii) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same.

viii) it is further clarified that if any condition is breached, the State/prosecution is at liberty to file application under Section 439(2) of the Code of Criminal Procedure.

ix) Bail before the trial Court.

x) Application is disposed of.

(M. G. SEWLIKAR)
Judge