

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1421 OF 2021

SYED ALI AKBAR HASHMI S/O SYED FAYAZODDIN HASHMI
VERSUS
STATE OF MAHARASHTRA

...
Mr. Shaikh Tarek Mobin H., Advocate for the applicant.
Mrs. Vaishali Patil Jadhav, APP for the respondent – State.
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 07.12.2021

ORDER :-

. Present application has been filed by the applicant - accused No.5, who has been arrested in connection with Crime No.20 of 2021 registered with Kotwali Police Station, Dist. Parbhani for the offences punishable under Sections 302, 307, 324, 294, 324, 506, 143, 147, 148, 149 of Indian Penal Code. Before proceeding further, it can be seen that the earlier Bail Application filed by the present applicant i.e. Bail Application No. 808 of 2021 was rejected by this Court on 21.08.2021 when it can be seen that the charge-sheet was filed before the Trial Court on 26.04.2021. That means, this Court had considered the evidence collected in the charge-sheet when his earlier bail application was rejected on 21.08.2021 by this Court (Coram : V. G. Bisht, J.), who

is now not available with this Bench.

2. Heard learned Advocate Mr. Shaikh Tarek Mobin H. for the applicant and learned APP Mrs. Vaishali Patil Jadhav for the respondent – State. In order to cut short, it can be seen that both of them have made submissions in support of their respective contentions.

3. In addition to the submissions, it has been submitted by the learned Advocate for the applicant that this Court had earlier mechanically rejected the bail application of the applicant.

4. The FIR has been lodged by one Ahmed Khan Salim Khan, who himself is an injured person. Deceased Majid Khan aged 35 was the brother of the informant. It has been stated that all the accused persons had assaulted the informant and his brothers with stone, iron rod and sticks. Role attributed to the present applicant is that by holding stone in his hand and shouting that the brother of the informant should be eliminated. He had hit that stone on the head of Majid resulting grave injury to Majid on the head. If we consider his postmortem report, column No.17, it can be seen that there are seven injuries including depressed fracture on right parietal region. There are corresponding internal injuries and the cause of death is shown as death due to head injury. The stone has been recovered from the place. In all eight

weapons have been recovered and those articles were sent to the medical officer, who had conducted the postmortem, for inspection. He has given the impression that the injuries mentioned in the postmortem report are possible by those articles in due circumstances. Thus, the stone allegedly used by the present applicant for causing injury to Majid appears to be also responsible for his death. It is also to be noted that there are other injured persons as well as eye witnesses whose statements have been recorded, which are consistent enough to the role attributed to the present applicant. Therefore, when there is evidence against the present applicant, he does not deserve to be released on bail, especially when his earlier bail application was also rejected by this Court after perusing the charge-sheet and now, there is no change in the circumstance. Hence, the application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

scm