

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.40 OF 2021

Sajid Wajid Shaikh

Applicant

versus

The State of Maharashtra

Respondent

Mr.S.R.Phanse with S.S.Bedekar for applicant.

Mrs.Veera Shinde, APP, for State.

API Mukta Phadtare, Shantinagar Police Station, Bhiwandi, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th February 2021

PC :

1. This is an application for bail in CR No.I-347 of 2020 registered with Shanti Nagar Police Station, Bhiwandi, for offences punishable under Sections 326, 324, 504, 506, 143, 147, 148, 149 and 120-B of Indian Penal Code. Subsequently Section 302 was added. The FIR was registered on 7th June 2020. The applicant was arrested on 15th August 2020.

2. The FIR was filed by Mohd. Akram Akbarali Ansari initially against seven persons namely Ishtikar, Ismail, Ibrahim, Israil, Ammu, Wasim and Sheru. Deceased had registered FIR for offence of unnatural sex with his nephew Akhtar Ansari brother of Ishtikar Ansari. Akhtar Ansari came to be arrested and is in jail. Ishtikar was therefore pressurizing the deceased to withdraw the rape case.

3. In this background on the night of 6th June 2020, as deceased was proceeding towards his house post dinner pillion riding with his brother Irfan, both were intercepted by seven persons namely

Ishtikar, Ismail, Ibrahim, Israil, Ammu, Wasim and Sheru. Ishtikar threatened to kill the deceased if he did not withdraw the rape case against Akhtar Ansari as he was unable to secure bail and on refusal by the deceased to do so, pulled him down, dragged him and started beating him up using iron rod and inflicted blows on both legs and left hand of the deceased. The other six persons along with Ishtikar also joined in inflicting blows to the deceased and his brother Irfan and injured the deceased using a wooden stick. When the incident happened, several persons gathered. Some of them intervened to save the deceased and his brother Irfan. Aazam, another brother of deceased rushed the deceased and his brother Irfan initially to Shiraj Hospital in Bhiwandi and thereafter to another hospital in Mumbai for further treatment.

4. Initially offences were registered under Section 326 and other penal provisions. After death of injured Section 302 was invoked. The applicant was not named in the FIR. It is alleged that the applicant was seen in the CCTV footage. He was found talking with co-accused whose name is mentioned in the FIR. However, no overt act has been attributed to him having participated in the offence. Four co-accused had preferred application for anticipatory bail before this Court which was allowed by order dated 21st November 2020. The role assigned to the said accused is similar to present applicant. It is not disputed that the applicant is entitled for parity. Even persons named in FIR were arrested. Five out of them are granted bail. In the circumstances case for grant of bail is made out. Hence, I pass following order :

ORDER

(i) Bail Application is allowed and disposed of;

(ii) The applicant is directed to be released on bail in connection with CR No.I-347 of 2020 registered with Shanti Nagar Police Station, Bhiwandi, on his executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount’;

(iii) The applicant shall report Shanti Nagar Police Station, Bhiwandi, once in three months on every first Saturday, between 11 and 1 pm till further orders.

5. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)

MST