

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 768 OF 2020

Ahmed Raza Sajid Shaikh @ Sharukh ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Prashant Pandey a/w Mr. Pradeep Singh i/b. Welegal, Advocate
for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

Mr. Rathod, P.S.I. Ghatkopar Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 12th JANUARY, 2021.

PER COURT:

1. This is an application for bail in C.R. No. 580 of 2020 registered with Ghatkopar Police Station, Mumbai for offences punishable under Sections 302, 324, 504 r/w Section 34 of Indian Penal Code. The applicant was arrested on 21st October, 2017.

2. The prosecution case is that on 21st October, 2017, the first informant, Dhiraj Gaikwad (deceased), Sagar Gurav and Krushna Dolas were chitchatting in front of Sai Baba Temple. The applicant and the other accused Babu came there. Babu abused them. The applicant questioned them why they are teasing his sister. Both started assaulting them. The family members and others

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intervened and put an end to quarrel. After 5 to 10 minutes the applicant and other accused again came. The applicant gave blow by sharp weapon on the chest of Dheeraj. His mother intervened. She sustained injury on her hand. The other accused Babu also gave blow by sharp weapon on complainant. Babu gave blow by sharp object on the neck of the Krishna Dolas. The accused ran away. Dheeraj died due to injuries. Investigation proceeded. Statements of witnesses were recorded. On completing investigation, charge-sheet was filed.

3. Learned counsel for the applicant submitted that the applicant is in custody for a period of about three and half years. There is no progress in trial. Although charge was framed on 30th August, 2018, the prosecution has not examined any witness. On several dates of hearing the accused were not produced before the trial Court. It is submitted that the statements of witnesses are stereotype and the same were recorded belatedly. There was no reason for delay in recording the statement of the eye witnesses. There is recovery of knife from the applicant. However, there were no blood stains. Although there are eye witnesses, their statements were recorded belatedly. Reliance is placed on the order passed by this Court in Bail Application No. 1442 of 2017 in support of submission that bail can be granted on the ground that there was

delay recording statement of eye witnesses. Learned advocate for the applicant also submitted that there are no independent witnesses supporting prosecution case other than the eye witnesses who were interested witnesses.

4. Learned APP submitted that there is evidence of eye witnesses. The complainant is one of the eye witness. Merely on account of delay their evidence cannot be discarded at this stage. There is one more case registered against the applicant for offence under Sections 384 & 457 of IPC with Ghatkopar Police Station, Mumbai.

5. I have perused the statements of witnesses. There are eye witnesses. Statements of eye witnesses are corroborated by the post-mortem report. The submissions advanced by the learned counsel for the applicant cannot be accepted at this stage. Hence, no case for grant of bail is made out. Hence, I pass following order.

ORDER

- i) Criminal Bail Application No. 768 of 2020 stands rejected and disposed of.
- ii) Trial is expedited.
- iii) The accused be produced before the trial Court on the dates of hearing and the trial shall proceed expeditiously and

concluded as far as possible within six months from date of receipt of this order.

iv) Registry shall forward copy of this order to trial Court immediately.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)