

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1111 OF 2021

Amin Mehboob Shaikh @ Amin Mebub

Shaikh @ Abu .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.S.V.Marwadi i/b Mr.N.M.Nadar for the Applicant.

Ms.A.A.Takalkar, APP for the State.

P.I. Mr.Sudhakar Humbe attached to Rabodi Police Station,
Thane City, present.

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CORAM: BHARATI DANGRE, J.

DATED : 15th SEPTEMBER, 2021

P.C:-

1. The Applicant came to be arrested on 26/01/2019 in connection with C.R.I-29 of 2019 registered with Rabodi Police Station thereby invoking Sections 302, 384, 394, 143, 147, 148, 149, 323 and 504 of the Indian Penal Code (for short, “**the IPC**”). On completion of investigation, charge-sheet came to be filed against the five accused persons and the Applicant is named as Accused No.1. Out of the arrested accused, Accused Nos.3, 4 and 5 are already released on bail by the Court of Sessions.

2. On perusal of the charge-sheet, it can be discerned that on 26/01/2019, complaint is filed by one Sonu Jaiswal, wherein

he narrate the happenings of the incident dated 26/01/2019. He state that after completing his trade in Vashi Market, Navi Mumbai, when he was enroute his home with an amount of Rs.50,000/- in his pocket, a person with whom, he was acquainted, by name Amin Mehboob Shaikh (Applicant) crossed his way and demanded money for purchase of liquor. When the Informant refused to entertain him, he slapped him and verbally abused. It is alleged that he snatched an amount of Rs.40,000/- from his pocket.

The Informant returned home and narrated the incident to his family members, who came out of the house and confronted the Applicant, who was present in front of kirana shop and requested him to return the money, but he did not accede to their request. Instead, he made a phone call to someone and thereupon, one Shaukat Shaikh who was acquainted to the Informant, came on the spot alongwith his three friends and all of them started assaulting his father, mother, sister and his elder brother. It is alleged that Shaukat took out a pointed and sharp weapon like knife, but since his brother dashed with him, it fell somewhere around. It is alleged that the members of the Informant's family kept pleading with the assailants that their father is a heart patient, but in utter ignorance of the said pleading, it is alleged that all the assailants assaulted his father on chest, stomach, face and even the Informant, his mother, sister and brother were also assaulted. His father started complaining about pain in chest and, therefore, he was immediately taken to the hospital where he was declared dead.

In the backdrop of these allegations, FIR came to be registered.

3. The body of the father of the Informant was forwarded for postmortem and the final cause of death was ascertained on 22/04/2019 to the following effect:-

“Death due to head injury with acute coronary syndrome with no evidence of any poison”

When the postmortem report is perused, in column No.17, it records injury in form of abrasions on right hand dorsum, left shoulder, left arm, left forearm, left calf region and as far as column No.18 is concerned, it records contusion over left parieto-temporal region of 4 cm x 3 cm. The postmortem report, in column No.19, records that there is no fracture of skull vault or bone.

4. The statements of several eye witnesses are compiled in the charge-sheet, which include the statements of the Informant's brother Suresh, mother Prema, sister Nisha. The statement of the Doctor, who declared the Informant's father to be dead, is also in the charge-sheet.

The two eye witnesses, Suresh and Prema, corroborate the Informant on the role attributed to the assailants and state that it was Shaukat, Accused No.2, who was armed with a weapon like knife. All the assailants are alleged to have collectively assaulted the Informant, his father, brother, sister as well as mother. Neither the Informant nor Suresh or Prema

sustained any serious injury. No specific role is attributed qua the assailants and as far as the present Applicant is concerned, none of the witnesses speaks of he assaulting the father of the deceased in his head. The cause of death is ascertained as head injury with acute coronary syndrome. The head injury is not attributed to the present Applicant in the charge-sheet, but as far as the acute coronary syndrome is concerned, the witnesses speak in sync with one another that all the assailants collectively assaulted the Informant and his family members, including deceased Pradeep Rajaram Jaiswal, the father of the Informant. The Applicant is not attributed the role of assaulting the deceased in his head. Pertinent to note that Accused Nos.3, 4 and 5, who are given a similar role by the witnesses, are released on bail on filing of the charge-sheet. There is no reason why the protection cannot be extended to the present Applicant, since he stand on the similar footing as to Accused Nos.3, 4 and 5. The application, therefore, deserves to be allowed, subject to the following conditions.

: ORDER :

- (a) Applicant - Amin Mehboob Shaikh @ Amin Mebub Shaikh @ Abu shall be released on bail in C.R.No.I-29 of 2019 registered with Rabodi Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any

person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.

(c) The Applicant shall report to the concerned Police Station on first Monday of every month between 10.00 a.m. and 2.00 p.m. till framing of charge and thereafter abide by the directions issued by the Sessions Court.

5. The application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)