

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

CRIMINAL BAIL APPLICATION NO.1452 OF 2021

Tausif Fareed Sayyed

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Ganesh Bhujbal, Advocate for Applicant.
- Mr.Ajay Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 21st JUNE, 2021

(Through video conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.709/2020 registered with Kondhwa Police Station, Pune, under sections 302, 323, 504, 120(B) r/w 34 of the Indian Penal Code and under section 4 (25) of the Arms Act and under section 37(1) r/w 135 of Maharashtra Police Act. The Applicant was arrested on 02/06/2020 and since then he is in custody.

2. The FIR is lodged by one Liyakat Manjarali Mir. He has stated that his nephew had a garage for repairing Rikshaw, next to the informant's shop of automobile spare parts. Bablu was having some enmity with the present Applicant Tausif and his brother Saif. In the past, Bablu was arrested because of the complaint by these two. On 01/06/2020, when the informant was returning home with Bablu on a two wheeler. At about 05.30 p.m., they were stopped at Navajish Park by Saif and the present Applicant. In the FIR their names are mentioned as Saif Sayyed and 'his brother Fareed Sayyed'. They were accompanied by two associates, who were having sharp weapons. All of them gave repeated blows on Bablu. A crowd gathered there and therefore the assailants ran away. Bablu was taken to hospital, but he was declared dead.

3. Heard Mr.Ganesh Bhujbal, learned counsel for the Applicant and Mr.Ajay Patil, learned APP for the State.

4. Learned counsel for the Applicant submitted that the Applicant's name is not mentioned in the FIR. His name is

introduced in the supplementary statement after the Applicant was arrested. He submitted that there is one more eyewitness in the form of 13 year old son of the deceased. His name was Sharif Sayyed. Mr.Bhujbal submitted that Sharif has implicated the Applicant falsely because the Applicant had enmity with the family. Mr.Bhujbal relied on the order passed by this Court granting bail to claim parity with the accused Aftab Hasan Shaikh, who was granted bail vide order dated 16/02/2021 in Bail Application No.1461/2020.

5. Learned APP opposed this application. He submitted that the Applicant was described as brother of Saif in the FIR and in the supplementary statement his name was clarified. Apart from direct evidence, there is recovery of weapon at the instance of the present Applicant and therefore he is not entitled for relief of bail.

6. I have considered these submissions and have perused the charge-sheet. The FIR mentions name of the assailants Saif Sayyed and his brother Fareed Sayyed. The Applicant is Saif's

brother. Fareed is their father and therefore it was an insignificant mistake. In any case, it is clarified by the supplementary statement of the first informant that was recorded on 02/06/2020, wherein the first informant has clarified that instead of Tausif, he has given name of Tausif's father.

7. Apart from the first informant, there is an important witness Sharif, who was 13 year old son of the deceased. The deceased was brutally assaulted by the Applicant and his brother in front of this 13 year old boy. The offence is very cruel. The post-mortem notes mention that the deceased had suffered as many as 16 injuries and the cause of death was mentioned as 'death due to injuries over head'.

8. Apart from this direct evidence, there is recovery of weapons at the instance of present Applicant, which was effected from dicky of his two wheeler. The Applicant does not have ground of parity available in his favour, because the other

accused who was granted bail i.e. Aftab, was not named by the eyewitness and even identification parade was not held to enable the witnesses to identify him. However, the present Applicant is clearly named by first informant and son of the deceased. Considering serious nature of the incident and sufficient circumstances against the present Applicant, the Applicant does not deserve to be released on bail. The application is rejected.

(SARANG V. KOTWAL, J.)