

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2097 OF 2021

Salman Kayuum Shaikh		Applicant
Versus		
The State of Maharashtra		Respondent

Mr. Gaurav Bhawnani i/b. Khan Abdul Wahab for the Applicant.
Mr. P.P. Shinde, APP for the Respondent-State.
Mr. Devhare B.R. PSI, Ghatkopar Police Station.

CORAM : SURENDRA P. TAVADE, JJ.

DATE : 4th NOVEMBER, 2021.

P. C. :

1. This is an application for bail u/s.439 of Cr.P.C.
2. On 27.05.2020 the Informant – Allarakha Shaikh registered the FIR in connection with C.R.No.328/2020 with Ghatkopar Police Station for the offences punishable u/s.302, 307, 504, 506 r/w.34 of the Indian Penal Code against the applicant and other co-accused. It is alleged by the informant that on 26.05.2020 at about 11.00 p.m. when he alongwith his friends by name Sarfaraz, Salwan went to meet his mother, at that time the applicant and other accused persons were staring at them and his friends. At that time, the informant took a black plastic bag from the hand of one Shabana, who was standing with the co-accused. After sometime, Yogesh Shah asked the informant to close his illegal

business. Thereafter, the informant asked the applicant to leave the place, but in the meantime the applicant brought a sword from an adjoining lane and gave it to co-accused Abdul Latif. Thereafter, Abdul Latif armed with the sword and Yogesh Shah armed with a knife, assaulted the informant's friends Sarfaraz and Salman @ Mango. In the meantime they were also assaulted by the applicant. Thereafter, the deceased was taken to the hospital where he declared dead. Thereafter the informant lodged FIR. The investigating officer rushed to the spot and prepared panchnama. He recorded the statement of eye-witnesses, namely, Mrs. Jamila Shaikh, Mrs. Sunanda Shinde, Mrs. Reshma Qadri, Mrs. Shabana Khan, Mrs. Shevanta Kamble, Mr. Abbas Shaikh, Mrs. Sharananna Kamble, Mrs. Hamida Shaikh, Mr. Mohd. Sayyad and Mrs. Payal Shaikh. On going through the statement of eye-witnesses, it appears that they have categorically stated that the applicant was present at the time of incident, he brought a sword and handed over to Abdul Latif who assaulted the deceased. So it can be said that the applicant was present on the spot and helped the co-accused who assaulted the deceased and ultimately he succumbed to the injuries. There are specific allegations made by the witnesses against the applicant.

3. Learned counsel for the applicant submits that in CCTV footage the

applicant is not seen. Similarly, he has invited my attention to the statement of Payal Shaikh, who has stated that the sword was brought by Latif himself.

4. On perusal of the said statement, it appears that she has made the said statement, but the other eye-witnesses have categorically deposed that the applicant brought the sword. On going through the other statement of the witnesses, it appears that the role attributed by the applicant while committing the offence.

5. Learned APP submits that the applicant is facing in all four offences. All offences are body offences. Therefore, it would not be just and proper to enlarge the applicant on bail. Hence, I am not inclined to grant bail to the applicant.

6. Learned counsel for the applicant submits that the applicant is in custody since last one year. The charge is not yet framed against the accused persons. Since the offence is serious in nature and the applicant is in custody for last one year, it would be just and proper to direct the trial court to frame the charge and proceed with the matter and dispose of the same as early as possible.

7. The application is accordingly rejected.

(SURENDRA P. TAVADE, J.)