

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1037 OF 2022

Sameer Akram Shaikh

... **APPLICANT**

VERSUS

The State of Maharashtra

... **RESPONDENT**

.....
Mr. R.L. Kute, Advocate for applicant

Mr. N.T. Bhagat, A.P.P. for respondent – State

.....

CORAM : R. G. AVACHAT, J.

DATE : 19th AUGUST, 2022.

PER COURT :

Heard. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0748/2020, registered at Shirdi Police Station, District Ahmednagar for the offence punishable under Sections 302, 120-B, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (Sessions Case No.71/2021).

2. The F.I.R. has been lodged by son of the deceased on 20/11/2020. It is his case that, his father (deceased) would run grocery shop at village Nimgaon Korhale (nearby

Shirdi). Co-accused Ajay Bhange, Vishal Patil and Ravindra Bansode had purchased some goods from the shop on credit. The mother of the informant had asked them to pay the dues. They had, therefore, abused and given threats to their lives. A non-cognizable crime was, therefore, registered against them. Thereafter they had pelted stones on the shop, causing extensive damage. A separate crime was, therefore, registered against them vide C.R. No.342/2020 on 16/11/2020.

3. It so happened that, on 19/11/2020 by 10.30 p.m., the informant was in the shop along with his father. The accused named in the F.I.R. along with the present applicant came to the shop. The applicant, co accused Kunal and Ajju abused the informant's father, questioning him as to why did he file police complaints against their friends. It is further alleged that, the applicant and co-accused Vishal, Ravindra, Sunil manhandled the deceased. They even caught-hold of the deceased so as to facilitate co-accused Ajay Bhange to make an assault with a knife. As a result, the father of the informant passed away.

4. The learned counsel for the applicant would

submit that, the applicant has not been attributed with murderous assault. He is alleged to have had abused and caught-hold of the deceased. Similarly placed co-accused Vishal has been granted bail. Criminal liability of the present applicant is sought to be invoked for the offence of murder on the basis of Section 149 of the Indian Penal Code. The applicant is in jail since little over 20 months. He, therefore, urged for grant of bail.

5. The learned A.P.P. would, on the other hand, submit that, the applicant had caught-hold of the deceased so as to facilitate accused No.1 to make assault with a knife. The applicant has criminal antecedents. He had even fled from the custody of jail authorities. He, therefore, urged for rejection of the application.

6. Considered the submissions advanced. Perused the F.I.R. and related papers. The applicant has been in jail for little over 20 months. A fatal assault is attributed to co-accused Ajay Bhange. The applicant had allegedly caught-hold the deceased. Thereupon, Ajay Bhange made an assault with a knife. Co-accused Vishal Patil is also alleged to have played role similar to the one played by the applicant. Vishal

has been granted bail. So far as regards case of having fled from the custody of the jail authorities, it being a bailable offence, the applicant must be on bail in that crime. There is material to indicate that the applicant has attempted to commit suicide by consuming phenol in jail. Be that as it may. Having considered the role played by the applicant in the crime in question, and the fact that co-accused has been granted bail, I am inclined to grant bail to the applicant. Hence the order :

ORDER

- (i) The Bail Application is allowed.

- (ii) The applicant be released on bail in connection with Crime No.0748/2020, registered at Shirdi Police Station, District Ahmednagar for the offence punishable under Sections 302, 120-B, 143, 147, 148, 149, 504, 506 of the Indian Penal Code (Sessions Case No.71/2021) on his furnishing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

- (iii) The applicant shall not enter the village Nimgaon

Korhale till conclusion of the trial.

(iv) The applicant shall mark his attendance at the concerned police station on every alternate day between 9.00 p.m. to 10.00 p.m. till conclusion of the trial.

(v) The applicant shall not tamper with the prosecution evidence.

**(R. G. AVACHAT)
JUDGE**

fmp/-