

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

CRIMINAL BAIL APPLICATION NO. 962 OF 2021

Akram Nurmahamad Khan

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Vaibhav Ugle, for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent / State.

CORAM : C.V. BHADANG, J.

DATE : 1 FEBRUARY 2022

(Through Video Conferencing)

P.C.

. By this Application, the Applicant-Accused No.10 is seeking regular bail. The Applicant alongwith others has been chargesheeted for the offence punishable under Section 302, 120(B), 504, 506, 143, 147, 148, 149 and 427 of IPC and Section 4/25 of the Indian Arms Act, arising out of Crime No.254/2018 registered with Police Station Kurduwadi, District Solapur.

2. The prosecution case is that the Accused had formed an unlawful assembly and in furtherance of the object thereof, had assaulted Vicky Gaikwad at 12.30 p.m. on 17 June 2018 near Hotel

Garwa on the Kurduwadi Road, in which Vicky Gaiwad succumbed to the injuries.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

4. The learned counsel for the Applicant has sought parity with the co-accused Arjun Rajabhau Shrirame (Accused No.7) who has been released on bail by this Court by order dated 31 January 2020 in BA No.3402/2019. It is submitted that the informant or the other witnesses who are claiming to be the eye witnesses have not attributed any specific role of assault by the Applicant on the deceased and as such, the present Applicant is similarly situated with the Accused No.7 Arjun Shrirame. This Application was adjourned in order to enable the learned APP to examine the claim of parity. Today, after having gone through the statement of the Complainant as well as the witness Ashish Rajput who was driving the vehicle at the time of the incident and whose statement was recorded on 21 June 2021, it does appear that no specific role is attributed to the Applicant except that the Applicant and the Accused No.7 Arjun Shrirame were present. Learned APP submitted that the charge has been framed, the trial has commenced and the Complainant is in the witness box.

5. I have also gone through the statement of witness Rajat Satyawar Dhainje whose statement was recorded on 10 July 2018 and he also does not attribute any specific role of assault by the Applicant on the deceased.

6. In so far as the statement of Sahil Shaikh and Aamir Tavkal is concerned, this Court has noted that their statements were recorded after a period of four months and thus, notwithstanding the fact that they had named the co-accused Arjun Shrirame, the said Accused has been released on bail. The learned counsel for the Applicant states that except the clothes of the Applicant, there is no other recovery and the clothes are not even blood stained.

7. After hearing the learned counsel for the parties, I find that the claim of parity with the co-accused Arjun Shrirame deserves to be accepted.

8. In the result, the following order is passed

ORDER

- (i) The Application is allowed.
- (ii) The Applicant be released on bail in Crime No.254/2018 registered with Police Station Kurduwadi, District Solapur, on executing a P.R. Bond

in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(iii) The Applicant shall report to Kurduwadi Police Station, once in a month, on every first Saturday between 12.00 noon to 1.00 p.m.

(iv) The Applicant shall not tamper with the prosecution evidence.

(v) The Applicant shall undertake to attend the trial regularly unless exempted by the learned Sessions Judge.

(vi) Bail before learned Sessions Judge.

(vii) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.