

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO.1109 OF 2021**

Sachin Hanuman Shinde ...Applicant  
Versus  
The State of Maharashtra ...Respondent

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Mr.Viral Rathod a/w. Mr.Sudip Mallick for applicant.  
Mr.A.A.Palkar APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.  
DATED : 25<sup>th</sup> NOVEMBER, 2022.**

**P. C. :-**

1. This is an application under Section 439 of Cr.P.C.facing trial in Sessions Case No.166/2018 pending on the file of Additional Sessions Judge, Malegaon for the offences punishable under Section 143,147,148,302, r/w. 149 and 120B of IPC.

2. Heard learned counsel Mr.Viral Rathod for applicant and learned APP Mr.A.A.Palkar for the State. Perused the record. Considering the submissions advanced by the respective parties.

3. The crime against the applicant and to other co-accused is pursuant to FIR filed by Asif khan Pathan, brother

of the deceased Mohsin Khan Pathan. Perusal of complaint prima facie reveals that on 26/6/2018 the father and brother of the complainant had proceeded towards Bolthan. At about 5.30p.m. complainant received a phone call from his father stating that about 6 persons were assaulting him and Mohsin. Immediately the complainant reached the place of incident. He saw that two persons had caught hold of his brother 4 others are named in the FIR were inflicting injuries on him, by means of knife. He has stated as assailants ran away on seeing him. He shifted his brother to the hospital. He states that his brother has named the other 4 accused persons. His brother expired while undergoing treatment.

4. Postmortem report reveals that the deceased had sustained multiple stab wounds on the right side of neck and that death was due to multiple stab wounds, inflicted on his neck, chest, shoulder, right thigh and on his back.

5. The applicant was not named in the FIR. He was arrested on 27/6/2018. The supplementary statement of the complainant came to be recorded on 28/6/2018, wherein he had disclosed the name of the applicant herein and one Alim

@ Lalya Anis Mosin. The supplementary statement therefore, indicates that the name of the applicant was known to the complainant on 28/6/2018. The records reveal that Test Identification Parade was conducted on 18/8/2018. The delay in conducting the TI Parade coupled with the fact that the name of the applicant was known to the complainant would not be safe to rely on the Memorandum of TI Parade. Panchanama under which clothes of accused were attached does not state as to from whom and from which place said clothes were recovered. A knife Exhibit D-2 was allegedly recovered pursuant to the disclosure statement made by the applicant. The said knife was sent for CFSL examination and the report indicates that it was stained with human blood of B-Group. It is however, to be noted that the Blood-group of deceased is in-conclusive. Under these circumstances, recovery of knife is prima facie not relevant to link the applicant with the alleged crime. Considering the aforesaid facts and circumstances and also the fact that the applicant has no antecedents, he is ordered to be released on bail on following conditions:

- i) Applicant Sachin Hanumant Shinde be released on bail on executing PR bond of Rs.25,000/- with one or two sureties of like amount.

- ii) The applicant shall report to concerned investigating officer on first Monday of every Month till framing of the charge.
- iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- iv) Bail Application stands disposed of in above terms.

**(SMT. ANUJA PRABHUDESSAI, J.)**