

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

BAIL APPLICATION NO.1361 OF 2022

Abid Gaus Shaikh ...Applicant

vs.

The State of Maharashtra ...Respondent

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Mr. Ganesh Gupta, i/b. GG Legal Associates, for the Applicant.

Ms. V. Shinde, for Respondent/State.

Mr. Saurabh Mane, PSI, Samarth Police Station, Pune present.

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CORAM : ANUJA PRABHUDESSAI, J.

DATE : 21 NOVEMBER 2022

P.C.:

This is an application under Section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Sessions Case No.321 of 2018 on the file of Additional Sessions Judge, Pune for the offences punishable under Sections 302, 323, 324 read with Section 34 of the Indian Penal Code.

2. Heard Mr. Gupta, learned Counsel for the Applicant and Ms. Shinde, learned APP for the State.

3. Mr. Gupta, learned Counsel for the Applicant, states that the Applicant is in custody since 20 February 2018. He states that the

only role attributed to the Applicant is that he was involved in assaulting the deceased with kicks and blows. He submits that the trial is not likely to conclude in immediate future. Considering the age of the Applicant, he be released on bail.

4. Ms. Shinde, learned APP, states that the statement of the deceased, recorded while he was undergoing the treatment, as well as statement of Nadim prima facie reveal that the Applicant was not only present at the place of the incident but he was also involved in assaulting the deceased Rauf Saiffudin Shaikh.

5. I have perused the records and considered the submissions advanced by learned Counsel for respective parties. The records prima facie indicate that on 20 February 2018, the Applicant and the co-accused Sarfaraj @ Sonya and Abid, had assaulted Rauf Saiffudin Shaikh by kicks and blows. The co-accused Sarfaraj later on told him that there was no petrol in his vehicle and requested him to get the petrol. He later on demanded money from the deceased Rauf. It is stated that the Applicant and the co-accused assaulted Rauf with kicks and blows and subsequently Sarfaraj poured petrol on his body and set him ablaze. The injured was admitted to the hospital. His statement was recorded on 20 February 2018, pursuant to which Crime No. 41 of 2018 came to be registered against the Applicant and the co-accused. Said Rauf has succumbed to the injuries on 3 March 2018. Hence, Section 302 came to be added.

6. The statement/dying declaration of the deceased indicates that Applicant and Azhar were involved in assaulting the deceased with kicks and blows and the co-accused Sarfaraj @ Sonya was involved in setting said deceased Rauf ablaze. There is no material to indicate that the Applicant herein was involved in setting the deceased ablaze or that the said incident was pre-planned and or that the Applicant had knowledge that the co-accused Sarfaraj was likely to set the deceased ablaze.

7. The Applicant, who is said to be 21 years of age, is in custody since 20 February 2018. Considering the large pendency, the trial is not likely to conclude in immediate future.

8. Considering the above facts and circumstances and particularly the role attributed to the Applicant, in my considered view, this is a fit case for grant of bail. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant who is facing trial in Sessions Case No.321 of 2018 arising from C.R. No.41 of 2018 registered with Samarth Police Station, is ordered to be released on furnishing P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount ;
- (ii) The Applicant shall report to Samarth Police Station once in two month on every 1st Monday between 11.00 a.m. to 02.00

p.m. until further orders;

- (iii) The Applicant shall not interfere with prosecution witness 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) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

9. Bail Application stands disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)