

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.4465 OF 2021

Shaikh Waseem Shaikh Yunus

... Applicant

Vs.

The State of Maharashtra & Anr.

... Respondents

Mr.Sachin S. Deshmukh for the Applicant.

Ms.M.R. Tidke, APP for the Respondent –State.

CORAM : C.V. BHADANG, J.

DATE : 2 FEBRUARY 2022
(Through Video Conferencing)

P.C.

. By this Application, the Applicant-accused is seeking released on bail in Crime No.104 of 2019 registered with Pawar Wadi Police Station, Malegaon, District-Nashik under Section 302, 143, 148, 149, 504 and 506 of the Indian Penal Code and Section 4/25 of the Arms Act, 1959.

2. The aforesaid offence was registered on the basis of the complaint lodged by Sehnaz Bano Samdhuddin Kureshi, who is mother of the deceased Ameen Goli. The incident is alleged to have happened on 12 September 2019 in the night at about 10.30 p.m. within the jurisdiction of Pawar Wadi Police Station, Malegaon, District-Nashik where the Applicant and the co-accused are alleged to have assaulted the deceased by means of

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sword and sickle on account of the previous enmity. Ameen Goli died as a result of the injuries sustained in the assault. The postmortem report shows that the caused of death is Hypoglycemic shock due to poly truma including stab/puncture wounds of vital organs i.e. heart, lungs and liver.

3. In this case the investigation is complete and the charge-sheet is filed.

4. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. Perused record.

5. The learned counsel for the Applicant submitted that there is no recovery of any weapon from the Applicant. It is submitted that the Applicant has been falsely implicated out of previous enmity. He pointed out that the investigation is complete and the Applicant who is in custody since 13 September 2019 deserves to be released on bail.

6. The learned Additional Public Prosecutor has pointed out that there are eye witness to the incident including Mohammad Yakub and others and there is recovery of the blood stained clothes from the Applicant on 15 September 2019. It is submitted that the Applicant was part of the unlawful assembly with the common object of assaulting the deceased Ameen Goli.

7. I have considered the submissions made. *Prima facie* it appears that the incident is alleged to have happened on the previous enmity. The FIR shows that the deceased had informed his mother/informant about their being some quarrel/dispute between him and the co-accused. The incident followed in the same evening at about 10.30 p.m. in a public place.

8. *Prima facie* there is eye witness account of the incident as stated by witness Mohammed Yakub who stated that the Applicant was holding a sickle. There is also recovery of the blood stained clothes from the Applicant after his arrest. The Applicant is charge-sheeted for a capital offence. No case for grant of bail is made out. The Application is rejected. The trial is expedited.

C.V. BHADANG, J.