

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.367 OF 2023

SHAIKH KHALIL SHAIKH ISMAIL @ MOHD. KHALIL MOHD. ISMAIL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Avinash R. Borulkar
APP for Respondent : Mr. K. S. Patil
...

CORAM : S. G. MEHARE, J.

DATE : 23-03-2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.
2. The applicant/husband has been arraigned as an accused for the murder of his wife. The son of the applicant is the eyewitness. He has categorically deposed the incident. He has specifically alleged that the applicant went outside the house, brought a stone and hit on the head of his mother and she fell down. *Prima facie*, her death is homicidal. The chargesheet has been filed.
3. The learned counsel for the applicant would argue that there is discrepancy as regards the intimation given to the first informant. The presence of the son on the spot of the incident is also doubtful. The applicant is behind bar since last more than one year. There are no antecedents to his discredit. At the most,

it may be the incident happened at the spur of moment. Therefore, he may be granted bail.

4. The learned A.P.P. would argue that there is a direct evidence against the applicant. The witness is his son. Therefore, there is a great possibility to tamper with the prosecution witnesses. That apart, the trial has been commenced and is likely to be finished in the near future. The offence is grave. Hence, he may not be granted bail.

5. While considering the bail application, the Court has to see the *prima facie* case and need not to scrutiny the evidence and other material as if it is a trial. Who had given information to the first informant, appears immaterial at this juncture. However, the son is the eyewitness who is consistent about the incident. He has specifically stated that the accused brought stone from outside the house and hit on the head of his mother. The son of the applicant is a minor. If the applicant is released on bail, he would definitely try to threat or tutor him. He needs to be protected. It is a direct evidence against the applicant. Hence, for the above reasons, the application stands dismissed.

(S. G. MEHARE)
JUDGE