

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

928 BAIL APPLICATION NO.426 OF 2023

SHAIKH KALIM SHAIKH BABU
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shaikh Mazhar A. Jahagirdar.
APP for Respondent-State : Mr. K. S. Patil.
...

CORAM : S. G. MEHARE, J.
DATE : 16.03.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The allegations levelled against the applicant is that he along with the other co-accused came on the spot. One of the eye witness Feroz was with the deceased. He stated that all the accused came there and started beating the deceased with hands, slaps and kicking him. C.C.T.V. footage reveals that one of the co-accused Shaikh Rajek Shaikh Aatik, as per the statement of the learned counsel for the applicant, picked up something from the spot of the incident and assaulted the deceased on head.

3. Learned counsel for the applicant would also argue that the clothes which were seen in C.C.T.V. footage do not match in colour with the clothes recovered at the instance of the applicant. The eye witness did not disclose the incident immediately on 12.09.2022, though he was with the deceased and police in the hospital. There are no antecedents to his discredit. Hence, he may be released on bail.

4. Per contra, learned APP has opposed the bail application, and argued that the applicant was with the other co-accused. He has participated in the crime. The offence is serious. Hence, he may not be granted bail.

5. Perused the charge sheet. The eye witness did not state the specific role attributed to the applicant nor the C.C.T.V. footage reflects that the present applicant assaulted the deceased with an article lying on the spot from the incident. Considering the facts and circumstances of the case, the Court is of the view that the applicant deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.

- (ii) Applicant **SHAIKH KALIM SHAIKH BABU** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.289 of 2022, registered by Police Station City Chowk, District Aurangabad, for the offences punishable under Sections 302, 143, 323, 504, 506, 201 of the IPC, on the condition not to tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

...

vmk/-