

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

BAIL APPLICATION NO.550 OF 2023

SYED FARHAN SAHIL S/O. SYED MUMTAJ
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. N. S. Ghanekar
APP for Respondent: Mr. K. S. Patil
.....

CORAM : S. G. MEHARE, J.

DATE : 27.04.2023

PER COURT :

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondents/State.
2. The applicant is seeking bail in Crime No. 398 of 2022 registered with Vimantal Police Station, District Nanded for the offences punishable under Sections 302, 364, 341, 143, 147, 148, 149 of Indian Penal Code and Section 135 of Maharashtra Police Act.
3. The incident started to happen at 2.30 p.m to 3.30 p.m. The applicant has a case that at the time of the alleged incident he was at one function hall which was away from the alleged spot of the incident. The applicant was not captured

in the C.C.T.V footage, wherein the other co-accused were seen assaulting the deceased. However, as against this, one of the witnesses named the applicant and identified him in the test identification parade. The C.C.T.V footage and test identification parade of the applicant is contradictory. There are no overt acts on the part of the applicant. The statements of the witnesses, who identified the applicant contradict with the CCTV footage. The CCTV footage prevails over the statement of the alleged eye witness. There are no antecedents to his discredit.

4. The learned A.P.P. opposed the application and would submit that as per the order of this Court the pen drive of C.C.T.V footage of function hall has been examined by the Investigating Officer as per this Court order. He found that till 3.08 p.m the applicant was in the said function hall and then left. The offence is serious. The eye witnesses are stating against the applicant. He has also been identified in the test identification parade. So. considering the gravity of the offence, he may not be granted bail.

5. The prosecution has two evidences, one is CCTV footage of the function hall where the applicant was present

and another is CCTV footage of spot of the incident wherein the applicant was captured. The sole evidence against the applicant is the so called eye witness and identification of the applicant.

6. The contradictory evidence in two CCTV footages support the contention of the applicant may give the benefit of the accused for the purpose of bail. Hence, the following order :-

ORDER

- (i) The application is allowed.
- (ii) Applicant Syed Farhan Sahil s/o Syed Mumtaj be released on bail on furnishing P. B. and S.B. of Rs. 50,000/- with one solvent surety of the like amount, in aforementioned crime registered with aforementioned police station, on the following conditions :-
 - (a) He shall not tamper with the prosecution witnesses.
 - (b) He shall attend the trial on each and every date.

(S. G. MEHARE)
JUDGE

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