

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

BAIL APPLICATION NO.982 OF 2023

SHAIKH AKBAR S/O. ZAHOOR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Saeed S. Shaikh
APP for Respondent/State : Ms. V.N. Patil Jadhav
...

CORAM : S.G. MEHARE, J.

DATED : JULY 13, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is seeking bail in Crime No.99 of 2022 registered with Kalamnoori Police Station, District Hingoli for the offence punishable under Section 302 of the Indian Penal Code.
3. It has been alleged against the applicant that he assaulted the deceased with wooden log on his head for the liquor. The prosecution has eyewitnesses and the circumstantial evidence of recovery of weapon used in the crime from the applicant.
4. Learned counsel for the applicant reading the statements of the eyewitnesses would submit that it cannot be gathered that they were really the eyewitnesses. Since there is no direct evidence against the applicant, the circumstantial evidence may not be helpful

to the prosecution. That apart, the applicant is a poor coolie and behind bar for more than one year. Hence, he may be granted bail.

5. Learned APP would submit that the statements of the eyewitnesses cannot be interpreted as tried to be interpreted by the learned counsel for the applicant. *Prima facie* material is to be seen. It appears that there were eyewitnesses to the incident and there is recovery of weapon at the hands of the applicant. The offence is serious. The gravity of the offence is one of the ground to reject the bail application. Barely he is behind bar for more than one year is also not a ground to grant bail.

6. Perused the papers. Whether eyewitnesses were present on the spot of the incident, is a matter of evidence before the trial Court. *Prima facie*, it appears that the applicant was present on the spot of the incident. The incident happened at a public place where the presence of the villagers was possible. *Prima facie*, it appears that there were eyewitnesses to the incident and in addition thereto, the weapon allegedly used in the crime has been recovered from the applicant. *Prima facie* material is there against the applicant. The offence is grave. Therefore, the applicant does not deserve bail. Hence, the application stands dismissed.

(S.G. MEHARE, J.)