

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

934 BAIL APPLICATION NO.2011 OF 2022

SAYYAD ISTIYAK NUR HAMID @ SHERU
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Patil Vijay Bhalerao.
APP for Respondent-State : Mr. K. S. Patil.
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CORAM : S. G. MEHARE, J.
DATE : 03.01.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant has not been named in the FIR as an accused. In the FIR, his role was allegedly to separate the quarrel between the co-accused and the deceased. However, subsequently one eye witness Adil came forward first time on 18.04.2022. Then, his statement under Section 164 of the Cr.P.C. was recorded on 26.04.2022 in which he made a contradictory statement as regards the use of the weapon by the applicant.
3. Learned counsel for the applicant has raised the serious suspicion over the statement of this eye witness Adil and

would argue that when he informed the police about the incident why police did not record his statement immediately. The incident allegedly happened on 04.04.2022. There is inordinate delay in recording the statement of the eye witness. His conduct also has been doubted. He would also argue that there were no injuries on the chest likely to be caused due to chain or the stick. He would argue that the evidence has been created against the applicant after thought. He has no role to play in assault. He is languishing in jail from 02.05.2022. He may be granted bail.

4. Learned APP would argue that delay in recording the statement may be explained during the trial. There is direct evidence against the applicant. The offence is serious. The applicant may tamper with the prosecution witnesses. He may not be granted bail.

5. Perused the charge sheet. In the FIR, the role attributed to the applicant was that he was separating the quarrel between the deceased and co-accused. However, after around 14 days, the eye witness came forward. His statement as regards to the use of the weapon at the hands of the applicant appears not consistent. The medical evidence i.e. Post Mortem Report also does not support the prosecution case that the

deceased had injuries over the chest likely to be caused by a stick or iron chain. Circumstances of the case entitle the applicant to get the bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SAYYAD ISTIYAK NUR HAMID @ SHERU** 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.85 of 2022, registered by Police Station Jalgaon City, District Jalgaon, for the offences punishable under Sections 302, 201 read with Section 34 of the IPC, on the condition not to tamper with the prosecution witnesses.

(S. G. MEHARE, J.)

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vmk/-