



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 510 OF 2023

HAMID BABULAL SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Arya Sapre i/b Mr. Kaushik Mhatre for the Applicant.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 16, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302, 120-B read with 34 of the Indian Penal Code registered on 06/09/2021 vide C.R. No.775 of 2021 with Virar Police Station.
- 3.** The applicant is the accused no.3. The applicant was arrested on 10/09/2021. It is the prosecution case that in the intervening night between 05/09/2021 and 06/09/2021 at about 3.10 a.m., 14 to 15 accused stopped the deceased

who was travelling on a scooter. The victim was badly assaulted with an iron rod and knife. The advanced death certificate reveals the cause of death is "cardiorespiratory arrest due to skull fracture with injury to the brain with associated hemorrhagic shock with multiple stab injuries". The stab injuries are attributed to the co-accused and one bearded person. Assault by the iron rod is attributed to another co-accused.

4. So far as the applicant is concerned, the role alleged is that he was present when the incident took place. There is nothing on record to indicate that the applicant had actually participated in the assault and he is one of the assailant except that there is a recovery of blood-stained clothes at the instance of the present applicant. No test identification parade was conducted; therefore, prima facie it can not be said for sure at this stage that the applicant is the bearded person.

5. Learned APP while opposing the application for bail relied upon the brutal manner in which the victim was killed. It is further submitted that the applicant is

specifically named by the eyewitnesses.

6. The applicant has been in custody for more than 2 years and the trial is likely to take some time to conclude. In the facts and circumstances of the present case, considering the role attributed to the applicant, that there are no criminal antecedents reported against the applicant and no test identification parade conducted, I am inclined to enlarge the applicant on bail. However, I am inclined to impose a condition that the applicant shall not enter the jurisdiction of the police station where the crime is registered to allay apprehension of the witnesses, till the further orders of the trial Court. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Hamid Babulal Shaikh in connection with C.R. No.775 of 2021 registered with Virar Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Virar police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for the purpose of reporting to the Investigating Officer, the applicant shall not enter the jurisdiction of Virar police station after being released on bail, till further orders of the trial Court.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

7. The application is disposed of.

(M. S. KARNIK, J.)