

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1141 OF 2022

Malikajan @ Sohel Raju Nadaf

... Applicant

V/s.

State of Maharashtra

... Respondent

.....
Mr. Niranjana Mundargi i/b. Mr. Nitesh Mohite, Advocate for Applicant.

Ms. P. N. Dabholkar, APP for Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 12 OCTOBER, 2023

P. C:-

1. By this application, Applicant is seeking bail in C.R.No. 3 of 2020 registered with Miraj Police Station, District Sangli, for the offences punishable under Sections 302, 201, 120-B read with 34 of Indian Penal Code, 1860 (for short "IPC") and Sections 4 and 25 of Arms Act.

2. It is the prosecution's case that on 02.01.2020 at about 11:30 p.m. at Malegaon road near Kalawati Temple, Miraj present Applicant and co-accused committed murder of Salim Bashir Bhilwade. It is alleged that on 02.01.2020 accused No.1 Ejaj Shaikh and present Applicant in a white coloured Maruti 800 Car bearing

No.MH-12-AN-9716 near Kalawati Temple gave dash to Salim from the backside, due to dash Salim fell down on the ground. Thereafter, accused No.1 and Applicant got down from Maruti car assaulted Salim with knife and sickle on his neck, face, hands and other parts of his body and ran away from the spot. In investigation police arrested Applicant and co-accused.

3. It is the contention of learned Counsel for the Applicant that prosecution's case is based on circumstantial evidence. Applicant has been dragged in this case, only because he had quarrel with the deceased. The co-accused Sameer @ Mohammad Alfaj Shaikh has been released on bail by the trial Court and accused Nos. 3 and 4 have been released on bail by this Court.

4. Learned counsel further submitted that it is alleged that the said incident was witnessed by eye witness but his statement is recorded on 14.01.2020, whereas incident was happened on 02.01.2020 and Applicant was arrested on 06.01.2020. There is recovery of blood stained clothes at the instance of Applicant, except that there is no recovery at the instance of Applicant. Applicant is behind bar more than two years. Hence, requested to allow the Application.

5. It is contention of learned APP that Applicant had enmity with the deceased. Applicant along with other co-accused assaulted the

deceased with knife and sickle. The said incident was witnessed by witnesses and they have stated against the Applicant. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

6. I have heard both the learned Counsel. Perused the FIR and charge-sheet. It is alleged that Applicant had assaulted deceased with knife and sickle. There is no recovery of weapon at the instance of Applicant. The eye witness Mr. Amar Gaikwad has stated that he had seen the incident and he saw that Applicant and co-accused were assaulting deceased with knife and sickle but his statement was recorded on 14.01.2020 whereas incident was happened on 02.01.2020 and applicant was arrested on 06.01.2020. Immediately after incident, this witness had not informed the police about the incident, after arrest of Applicant he approached the police. Applicant is behind bar more than 3 years. Investigation is completed and charge-sheet has been filed. The Co-accused have been released on bail. Considering the above facts, further detention of the Applicant is not required.

7. In view of the above, I pass following order:

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 3 of 2020 registered with Miraj Police Station, District Sangli

on executing P.R.Bond in the sum of Rs.25,000/-
with one or two sureties in the like amount.

- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The Application is allowed in the aforesaid terms and is accordingly disposed off.

9. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

The order is corrected in view of order dated 20th October 2023.