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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1409 OF 2021**

Shahid Shabbir Shaikh @ Khan	...Applicant
vs.	
State of Maharashtra	...Respondent

Mr. Amin Solkar with Ms. Misbaah Solkar for the Applicant.
Mr. H. J. Dedhia APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 16TH JUNE 2023

P. C. :

1. Heard learned Advocate Mr. Solkar for the Applicant and learned APP Mr. Dedhia for the Respondent-State.
2. The present Applicant is behind bar since month of May 2020, and he is aged about 18 years old. He is seeking bail on the ground of delayed trial, his age and he being injured in respect of which separate FIR is registered being C.R. No.I-175 of 2020, with Bhiwandi City police station.
3. According to learned Advocate Mr. Solkar, the name of deceased is Alam Shaikh and in fact, it is not the case of the

prosecution that the Applicant is having grudge with said Alam Shaikh. During quarrel with the first informant-Sahil Pathan, the deceased Alam intervened and he received injuries to his chest. According to him, there is no intention to kill the deceased.

4. A copy of the FIR filed by present Applicant and the charge-sheet is annexed. It is tendered on record. There are in all six accused persons and the applicant-Shahid is one of them. It is registered under sections 143, 144, 147, 148, 324, 326, 323, 504 of IPC and sections 37(1), 135 of the Bombay Police Act.

5. Learned APP opposed the Bail Application, on the ground that even though there is single injury to deceased, if the dimension is considered, it shows the gravity. He read over the provisions of section 301 of IPC. In order to show involvement of the Applicant, he also placed reliance upon recovery of knife at the instance of present Applicant and statements of the witnesses.

6. It is true that nature of injury is mentioned in ground No.17 of the post mortem report. The nature of injury is 12 X 5 X 7 cm. It is also true that apart from deceased Alam, there is also injury to witness Shabaz and it is on his head. Learned Advocate Mr. Solkar submitted that it is caused with help of bottle, whereas in the FIR

lodged by this Applicant, there is also allegation of beating with help of knife and wooden rod.

7. It seems that earlier to happening of this incident on 28th May 2020, there was an earlier incident that took place on 20th May 2020, at about 8.30 pm. The first informant-Sahil Pathan and his friend Ismail had gone to public toilet, present Applicant along with three others were sitting. It was on the occasion of exchanging greetings on account of Ramzan Eid. The Applicant and two others have abused the first informant.

8. Even on 28th May 2020, the first informant-Sahil Pathan and other persons were chit chatting near his house at that time present Applicant and three others called him. The friends of the first informant advised him to stay there only and those friends had gone to convince the present Applicant. After 15 minutes, present Applicant called the first informant-Sahil Pathan. The Applicant tried to assault the first informant, however, the deceased intervene and that's how he sustained injuries and expired.

9. It is true that there are allegations in the FIR showing involvement of the Applicant and it is supported by recovery of knife. At the same time, it is also true that the Applicant also sustained

injuries on his leg.

10. Considering the above circumstances, even though materials suggest involvement of the present Applicant, I am inclined to grant him bail. It is for the reason that the Applicant also got injured in that incident and considering his age and the fact that there are no previous antecedents. He is also behind bar since May 2020. The Applicant deserves to be released on bail. Hence, the following order is passed :

ORDER

- (a) The Applicant-Shahid Shabbir Shaikh @ Khan be released in connection with C.R. No.I-174 of 2020, registered with Bhiwandi City police station for the offences punishable under sections 302, 307, 323, 504 read with 34 of IPC, on bail on furnishing personal bond and surety bond of Rs.50,000/- with liberty to furnish one or two sureties of Rs.25,000/- each.
- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The Applicant shall attend the trial punctually.
- (d) Needless to say, violating of the condition above will make the

Applicant liable for cancellation of bail, after notice to the Applicant.

11. Application is disposed of accordingly.
12. These are my prima facie observations and the trial Court may not be influenced by that.
13. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]