



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

BAIL APPLICATION NO.861/2023

SHAIKH ASIF S/O SHAIKH LUQMAN ..APPLICANT

VS

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Samir Pradhan i/b. Adv. Naseem Shaikh for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI V. A. Pardeshi (IO), Pawarwadi Police Station, Malegaon, Nashik Rural.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 23, 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 Section 302 read with 34 of the Indian Penal Code (hereafter 'IPC' for short), registered vide First Information Report (FIR) No.I-171/2022 with Pawarwadi Police Station, Malegaon, Nashik Rural.

3. The date of the incident is 6/9/2022. The applicant is the accused no.3. There are in all three accused. It is alleged that the main assailant is accused no.1 who assaulted the deceased with 'koyta. The incident happened

in front of 'Shakil Hotel' at Golden Nagar, Malegaon. The deceased was assaulted by three accused. The accused nos. 1 and 2 were arrested on the same night of 6/9/2022. The applicant was arrested on 7/9/2022.

4. Learned APP relied upon the statement of the eye witness Mohammad Sarvar Shaukat Ali. The said statement was recorded on 18/9/2022. The role assigned to the applicant is that he was holding hand of the deceased while accused no.1 assaulting him. There is a delay in recording the statement dated 18/9/2022.

5. Learned APP pointed out that after arrest of the applicant, it is the applicant's father who went to the police station and handed over blood stained clothes of the applicant. The C.A. report is awaited.

6. Considering the role of the applicant and the nature of the accusations and as the applicant is in custody since 7/9/2022 almost for 11 months with the possibility of the trial commencing any time soon in the near future is remote, taking an overall view of the matter, I am inclined to enlarge the applicant on bail. There are no criminal antecedents reported against the applicant. The applicant

does not appear to be a flight risk. The applicant can be released on bail by imposing stringent conditions. The investigation is complete. The charge-sheet has been filed. Hence the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant- Shaikh Asif s/o. Shaikh Luqman in connection with FIR No.I-171/2022 with Pawarwadi Police Station, Malegaon, Nashik Rural, 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 not enter Malegaon Taluka till conclusion of the trial except for the purpose of attending the trial and reporting to the investigating officer.
- (d) The applicant shall report to the Investigating Officer of the Pawarwadi police station, Malegaon, Nashik Rural, once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (e) 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.

(f) 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.

7. The application is disposed of.

(M. S. KARNIK, J.)