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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.932 OF 2023**

Amit Shivaji Chavan

...Applicant

vs.

State of Maharashtra

...Respondent

Mr. Shailesh D. Chavan for the Applicant.

Mr. H. J. Dedhia APP for the Respondent-State.

Mr. U. R. Shinde, HC No.1715, Khandala police station present.

CORAM : S. M. MODAK, J.

DATED : 7TH JUNE 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.

2. The Applicant along with one Akshay Mohite were charge-sheeted for committing murder of one Asif Gulab Shaikh. He was murdered on 19th July 2020, at night time near Pargaon, S.T Depot passing from Khandala and Ajnuj road. There are two versions forthcoming from the prosecution papers itself. One version is given by the first informant-Altaf Gulab Shaikh, who is brother of the deceased and the second version is stated by the witness Pravin Dhamal, resident of village Pargaon, Taluka Khandala. As per facts

stated by the first informant, his brother-deceased left the house along with accused No.1-Akshay Mohite on the date of incident and after sometime the present Applicant informed him that he noticed, deceased lying in pool of blood. When the first informant went to the spot, he confirmed this fact. Along with the Applicant his mother and wife were also there. When enquired, the present Applicant informed the first informant that deceased called him on mobile and asked him to bring gutka by name Vimal. At that time the Applicant was going to grossery shop along with his wife and mother. He saw quarrel in between the deceased and accused No.1-Akshay. When the Applicant went ahead to catch hold, accused No.1-Akshay, threatened Sarika, wife of present Applicant to face same consequence, then accused-Akshay ran away.

3. The motive suggested is illicit relationship in between deceased-Asif and wife of accused No.1-Akshay. The police of Khandala police station have registered offence on 25th July 2020, under sections 302, 504, 506, 188 of IPC and under sections 37(1) and 37(3) of Bombay Police Act, 1951.

4. As against this there is statement of witness Pravin Dhamal. He has stated different facts. He saw the quarrel on the spot and he saw

the present Applicant catching hold of deceased from back side and accused No.1-Akshay assaulted with knife on person of the deceased. He narrated this fact to the first informant and his supplementary statement is recorded.

5. There is much emphasis on behalf of the Applicant on his conduct of informing to mother of deceased on her mobile. To buttress his submission, Mr. Chavan relied upon seizure of clothes belonging to present Applicant. There are no blood stains. As against this, there are blood stains on co-accused-Akshay Mohite.

6. Learned APP submitted that this is not stage to appreciate materials but the Court has to take up prima facie view on the basis of materials. Be that it may, the first informant himself has said about informing the incident to present Applicant. Furthermore, he has also stated about the facts disclosed by present Applicant to him when he went to the spot after getting information. He further mentions that present Applicant informed him about the threat given by accused to his wife.

7. On this background, the statement of mother and wife of present Applicant are very much relevant. From the index learned APP could not point out recording of other statements. This

observation is recorded only for the purpose of deciding bail application. When the trial will start spectrum will be large and appropriate decision can be taken.

8. The Applicant is behind bar since 2020. Considering above circumstances, the Applicant is entitled to be released on bail. This Court has not made any comment about which version is correct or not. It is for the trial Court to opine when the trial will be conducted. Hence, the Applicant is entitled for bail and the following order is passed :

ORDER

- (a) The Applicant-Amit Shivaji Chavan be released on bail in connection with C.R. No.94 of 2020 registered on 20th July 2020, with Khandala police station, Satara, for the offences punishable under under sections 302, 504, 506, 188 of IPC and under sections 37(1) and 37(3) of Bombay Police Act, 1951 of IPC, on furnishing personal bond and surety bond of Rs.25,000/-.
- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The Applicant shall give attendance to the Khandala police

station, Satara on every first and third Saturday of every month from 10 am to 12 noon for one year.

(d) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail, after notice to the Applicant.

9. Application is disposed of accordingly.

10. These are my prima facie observations and the trial Court may not be influenced by that.

11. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]