



Diksha Rane

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

**BAIL APPLICATION NO.944/2023**

PEER MOHAMMAD ABDUL MAJID KHAN ..APPLICANT  
VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

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Adv. A. K. Upadhyay for the applicant.  
Ms. Veera Shinde, APP for the State.  
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**CORAM : M. S. KARNIK, J.**

**DATE : OCTOBER 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 Sections 302, 323, 504, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 1/5/2018 vide C.R. No.244/2018 with Powai Police Station.
- 3.** There are two accused. The applicant is the accused no.1. The accused no.2 is enlarged on bail having regard to his role. It is the accusation that the accused killed Arbaz Mehboob Shaikh.

**4.** My attention is invited to the statement of the eye witnesses Shahbaz Mehboob Shaikh and Amir @ Ammu Abdul Karim Shaikh. Shahbaz Shaikh is the brother of the deceased. It appears that the eye witnesses Shahbaz Shaikh and Amir Shaikh had entered into an area which the applicant and his friend did not appreciate. The applicant had assaulted Shahbaz and told him that he should not be seen in this area. Thereafter, Shahbaz's brother i.e. deceased Arbaz Shaikh questioned the applicant as to why he assaulted Shahbaz. The accused were annoyed. The applicant gave some blows with a tile on different parts of body of the victim Arbaz Shaikh.

**5.** Learned APP opposed the application. It is submitted that the offence is serious and there are eye witnesses to the incident. The weapon tile is recovered.

**6.** The applicant is in custody for more than five years and five months with no possibility of the trial concluding any time soon. Moreover, from the post-mortem notes, the cause of death is not known. The injuries on the person of the deceased, *prima facie*, reveals that the intention may not be to cause death. These are *prima facie* observations

for considering the application for bail also in view of the fact that the applicant is in pre-trial custody for more than five years and five months. There are five criminal antecedents reported against the applicant. However, the criminal antecedents by itself may not be a reason to deny the facility of bail in the facts and circumstances of the present case. The applicant can be enlarged on bail by imposing stringent conditions to allay the apprehension expressed by learned APP.

**7.** The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. Hence, the following order :-

**ORDER**

(a) The application is allowed.

(b) The applicant - Peer Mohammad Abdul Majid Khan in connection with C.R. No.244/2018 registered with Powai 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 Powai police station once in a month every first Monday of

the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.

(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 attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the Mumbai/Mumbai Suburban District after being released on bail, till the trial concludes.

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

(h) The applicant shall surrender his passport, if any, to the investigating officer.

**8.** The application is disposed of.

**(M. S. KARNIK, J.)**