

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1348 OF 2022

Shaikh Majid Rajjak @ Majid Bhaiya ... Applicant

Versus

The State of Maharashtra and another ... Respondents

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Mr. Gaurav Bhawnani alongwith Mr. Abdul Wahab Khan for the Applicant.

Mr. P.H. Gaikwad Patil, APP for the State.

Mr. Rameshwar Gite alongwith Mr. Ashwin Pimpale, Mr. Rohit Gorade and Ms. Sunita Warang for the Respondent No.2.

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CORAM : N.R. BORKAR, J.

DATED : 24 FEBRUARY 2023

P.C. :-

. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 27 of 2021 registered at Malegaon City Police Station, for the offences punishable under Sections 302, 352 r/w. 34 of Indian Penal Code.

3. I have heard the learned Counsel for the applicant, the learned APP for the State and the learned Counsel for the Respondent No.2.

4. The applicant is accused No.2 in the aforesaid crime. There was a dispute between the deceased and the accused No.1. It is alleged that on 21 April 2021 the present applicant alongwith other co-accused, on account of said previous dispute, assaulted the deceased by knife and committed his murder.

5. The learned Counsel for the applicant has drawn my attention to the statements of eye-witnesses Mehmood Samsud Doha and Zakir Hussain Mohamad Ehsan. It is submitted that there is no reference of the present applicant in their statements. It is submitted that other eye-witnesses who have named the present applicant as one of the assailants are relatives of the deceased.

6. On the other hand, the learned APP and the learned Counsel for Respondent No.2 submit that eye-witnesses to the alleged incident, in their statements recorded under Sections 161 and 164 of Cr.P.C. have stated that the present applicant had caught hold of the deceased and other co-accused assaulted him. It is submitted that considering the nature of offence, the applicant may not be released on bail.

7. According to Mehmood Samsud Doha and Zakir Hussain Mohamad Ehsan, when they came to the place of incident, they saw accused Nos.1 and 3 there and they were trying to assault the brother of the deceased. There is no reference of the present applicant in their statements. I have perused the statement of other eye-witnesses, who

according to the learned Counsel for the applicant are the relatives of the deceased. They have not stated that after the alleged incident, the present applicant had ran away from the place of incident. Considering the overall facts and circumstances, I am inclined to release the applicant on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicant - Shaikh Majid Rajjak @ Majid Bhaiya be released on bail in Crime No. 27 of 2021 registered at Malegaon City Police Station, for the offences punishable under Sections 302, 352 r/w. 34 of Indian Penal Code, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant after his release shall not enter into limits of Malegaon City except to attend the dates before the trial Court, till conclusion of trial.
- (iv) If the abovesaid condition is breached then the prosecution / Respondent No.2 is at liberty to file application for cancellation of bail.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

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