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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1508 OF 2022**

Khalid Salim Sayyad	...Applicant
vs.	
State of Maharashtra	...Respondent

Mr. Monish R. Bhatia with Mr. Vikrant Sukhwani for the Applicant.
Mr. H. J. Dedhia APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 24TH MARCH 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.
2. The offence is registered by Ambarnath police station for committing murder of one Rizwan, who is son of the first informant Abbas Shaikh. The FIR being C.R. No.I-23 of 2018 was registered in all against eight persons for the offence punishable under sections 302, 323, 504, 143, 147, 148 and 149 of IPC. There was some dispute in between family of the first informant and family of the Applicant. It was on account of construction of a toilet. The construction was undertaken by father of the Applicant and it was obstructed by Hasina, who is mother of the deceased and wife of the

first informant. On this background, the incident took place at 17.30 hours on 24th January 2018.

3. Mohsin, Wasim and Nadeem are brothers of the Applicant, who caught hold the deceased-Rizwan and present Applicant assaulted him with knife. He was caught at the spot and handed over to police. The charge-sheet was filed only against three persons. Out of them, present Applicant is one of them. Whereas co-accused Khajabi, mother of the Applicant and Reshma, sister-in-law of the Applicant were granted anticipatory bail by this Court as per order dated 13th June 2018. Whereas, co-accused named in the FIR i.e. Mohsin, Wasim and Nadeem were discharged as per provisions of section 169 of the Code of Criminal Procedure for the reason that they were not found at spot on the basis of CCTV footage.

4. The Applicant is denying manner of incident as alleged in the FIR. Whereas he claims that, in fact, he was also assaulted. To support this contention he relied upon private complaint filed by his mother Khajabi before the Judicial Magistrate, First Class, Ulhasnagar. It was filed for the offences punishable under sections 307, 326, 452, 323, read with 34 of IPC. The present first informant–Abbas Shaikh is proposed accused No.1. That complaint

was dismissed by the Court of Judicial Magistrate First Class, Ulhasnagar.

5. In order to support that the Applicant was injured in that incident, the statement of mother of the deceased (at page 97) is relied upon. Even though it may be true what she has said about assault by the present Applicant, She has also said that the Applicant also received injury in scuffle and it is she, who has taken away knife from the hand of the Applicant. Furthermore, in the arrest panchnama carried out for this applicant (page 74), there is reference of injuries to him and treatment given to him.

6. FIR is filed in the year 2018. It is said that the trial has not yet started. So on merits as well as on account of delay in conducting trial, the Applicant is entitled to be released on bail. Hence, the following order is passed :

O R D E R

- (a) The Applicant be released on bail on furnishing bond and surety bond of Rs.25,000/- in connection with C.R. No.I-23 of 2018 registered with Ambarnath police station for the offence punishable under sections 302, 323, 504, 143, 147, 148 and

149 of IPC.

- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) Needless to say, violating of the condition above will make the Applicants liable for cancellation of bail, after notice.

7. Application is disposed of accordingly.

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

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

[S. M. MODAK, J.]