

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

CRIMINAL BAIL APPLICATION NO. 1090 OF 2023

Nadim Salim Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Aniket Vagal i/by Mr. Kunal Pednekar Advocate for the Applicant.

Mrs. Anamika Malhotra, APP for the Respondent – State.

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CORAM	:	PRAKASH D. NAIK, J.
DATE	:	22nd JUNE, 2023.

PER COURT:

1. The applicant is seeking bail in connection with C.R. No.172 of 2018 registered with Manmad Police Station, District Nashik for offences punishable under Sections 302, 120(B), 307, 324, 323, 452, 143, 147, 148, 149, 504, 506, 427 r/w. 34 of Indian Penal Code, 1860 ('IPC' for short) and under Section 7-A of Criminal Law Amendment Act, 1995 and under Section 4(25) of Arms Act.

2. The case of the prosecution is that, on 25th September, 2018, one Iliyas Sayyed and others hatched conspiracy and called the applicant and other accused at Ekta Nagar. The accused armed with weapons such as sticks, chopper, rod, iron pipes and sword, created terror at Ekta Nagar, caused damage to the vehicles and assaulted complainant's husband. He died during medical treatment. The

First Information Report ('FIR' for short) was lodged on 25th September, 2018. On completing investigation, charge-sheet is filed.

3. Learned Advocate for the applicant submitted that the applicant was arrested on 12.10.2018 and since then he is in custody. There is no progress in the trial. There are several accused in this case. The prosecution is relying upon the evidence of 60 witnesses. Charge is framed on 10.06.2023 against some of the accused. It is not clear as to when the trial would be concluded. Reliance is placed on the order passed by this Court in Criminal Bail Application No.2306 of 2022, wherein the bail was granted to the Accused therein on the ground of long incarceration in custody.

4. Learned A.P.P. submitted that, there are about 36 accused in this case. 21 accused are on bail. The accused are delaying the trial. The accused are not co-operating with the trial Court in proceeding with the case. The offence is of serious nature. The applicant and several other persons had assaulted the deceased with weapons and thereafter the accused had created terror in the locality.

5. Considering the fact that the applicant is in custody from 12.10.2018, report of the trial Court was called regarding status of

the trial vide order dated 02.05.2022. The report dated 20.05.2023 has been received from the learned District Judge and Additional Sessions Judge, Malegaon. In the said report it is stated that, out of 34 accused, 21 have been granted bail and 13 are in jail. One of them has not availed the bail facility, since he is involved in another case. The co-accused Iqbal Rajjak Shaikh had filed Criminal Application No.3422 of 2019 before this Court and vide order dated 22.09.2022 the said application was allowed to be withdrawn and the trial Court was directed to complete the hearing on the point of framing charge within nine months. It is further stated that the accused have engaged several Advocates. Most of the accused are residents of Mumbai. Some of the Advocates are coming from out station. Several times they did not remain present before the Court and seek adjournments for the hearing on the point of framing of charge against the accused. Hence, till date the hearing on the point of framing of charge could not be completed.

6. Learned Advocate for the Applicant has pointed out that the charge has been framed on 10.06.2023 against majority of the accused but it is yet to be framed against some of the accused. It is noted that the applicant is in custody from 12.10.2018. The co-accused Iqbal Rajjak Shaikh had preferred Bail Application No.3422 of 2019 before this Court. The said application was

allowed to be withdrawn. Liberty was granted to the said accused to apply a fresh application before the Court of Sessions, in case the charge is not framed. Apparently, the trial Court has framed the charge against the majority of accused persons on 10.06.2023. Considering the aforesaid circumstances, it is expected that the trial Court would proceed with the matter expeditiously. It is also expected that the accused and their Advocates shall co-operate with the trial Court in concluding the trial as early as possible.

7. Considering these circumstances, prayer for bail cannot be granted. However, liberty can be granted to the applicant to prefer fresh application for bail, in the event the trial is not concluded within stipulated time.

ORDER

- i. Bail Application No.1090 of 2023 is rejected and disposed off accordingly;
- ii. In the event the trial is not concluded within a period of six months from today, the applicant will be at liberty to prefer fresh application for bail before this Court.
- iii. This order shall be communicated to trial Court immediately.

(PRAKASH D. NAIK, J.)