

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1891 OF 2022

Injemam Salim Saiyyad ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. A.H. Ponda, Senior Advocate instructed by Sumit Krishna Kumar Tiwari for the Applicant.

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

Complainant is present.

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CORAM : N.R. BORKAR, J.

DATED : 2 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. 170 of 2018 registered at Manmad Police Station, Nashik for the 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 and Section 4 r/w. 25 of the Arms Act.

3. I have heard the learned Senior Counsel for the applicant and the learned APP for the State.

4. According to the prosecution, on 25 September 2018, the present applicant and other co-accused assaulted the deceased by chopper, swords etc. and committed his murder on account of previous enmity.

5. According to the eye-witnesses one of the assailants was Bhaiyya Salim Saiyyad. According to the prosecution, the present applicant whose name is Injemam Salim Saiyyad is the same assailant to whom the eye-witnesses have referred to in their statement as Bhaiyya Salim Saiyyad.

6. The learned Senior Counsel for the applicant submits that there is no material in the charge-sheet to show that the name of the present applicant is Bhaiyya or he is known by that name in the neighbourhood. According to the learned Senior Counsel, it is a case of mistaken identity. It is submitted that the applicant is in jail for more than 4 years and the trial is still at the stage of framing of charge.

7. I have perused the statement of witnesses. According to them, one of the assailants was Bhaiyya Salim Saiyyad. The name of the applicant is Injamam Salim Saiyyad. Thus, after the arrest of the applicant, it was necessary to record the supplementary statement of the eye-witnesses that the present applicant is the same assailant to whom they in their statement referred to as Bhaiyya. It was possible to record the statement of neighbours of the applicant, to that effect. However, the same is not done. Considering the overall facts and circumstances of the case

and as there are no other criminal antecedents, I am inclined to release the applicant on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicant - Injemam Salim Saiyyad be released on bail in Crime No. 170 of 2018 registered at Manmad Police Station, Nashik for the offences punishable under Sections 302, 120-B, 307, 324, 323, 452, 143, 147, 148, 148, 149, 504, 506, 427 r/w. 34 of Indian Penal Code and Section 4 r/w. 25 of the Arms Act, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall not enter into the limits of Manmad Police Station till conclusion of trial.
- (iv) The prosecution is at liberty to file application for cancellation of bail if the aforesaid condition is breached.

(N.R. BORKAR,J.)

KANCHAN
PRASHANT
DHURI

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