

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2419 OF 2022

Abid Ahamad Shaikh

... Applicant

V/s.

State of Maharashtra

... Respondent

.....
Mr. P. K. Shahane, Advocate for Applicant.

Mr. Amit A. Palkar, APP for Respondent-State.

PSI – D. V. Mali, Ambernath Police Station present.

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CORAM : G. A. SANAP, J.

DATE : 31st OCTOBER, 2023

P C:-

1. The Applicant i.e. accused No.4 has applied for bail in C.R.No. 567 of 2020 registered with Ambernath Police Station, Thane for the offences punishable under Sections 307, 332, 333, 353, 392, 427 read with 34 of Indian Penal Code, 1860 (for short “IPC”) and Sections 4 and 25 of Arms Act.

2. Learned Advocate for the applicant submitted that no specific role has been attributed to accused No.4. Learned Advocate submitted that there was no recovery of article or weapon at the instance of accused No.4. Learned Advocate submitted that the

accused No.4 was not known to the informant. His Test Identification Parade was conducted after three months. Learned Advocate submitted that accused No.4 has no criminal antecedents. He has been behind bars for 3½ years. It is submitted that his further detention is not warranted, considering the role attributed to him and the material against him. Learned Advocate submitted that he is ready to abide by the conditions that may be imposed by the Court.

3. Learned APP submitted that apart from this incident all the four accused were involved in another incident, on the report was lodged by one Afzal Katiyar. Learned APP submitted that when the police officer tried to apprehend the accused, the accused Nos. 1 and 2 assaulted him with deadly weapons. Learned APP took me through the report and pointed out the role attributed to accused No.4. Learned APP submitted that considering the serious nature of the crime, the release of the accused on bail would pose serious danger to the witnesses.

4. Perused the record and proceedings. It is seen that in the Test Identification Parade the informant has identified the accused No.4. There was no recovery of any article or weapon at the instance of accused No.4. It is seen that accused Nos. 1 and 2 inflicted the blows on the informant with the deadly weapons. As far as

remaining two accused are concerned, it was stated that they assaulted with the stick and iron rod. The weapon allegedly used by accused No.4 has not been recovered. Investigation has been over and charge-sheet has been filed. It is seen that despite filing charge-sheet charges have not been framed. According to the learned Advocate for accused No.4, the trial may take its own time for conclusion and till then the incarceration of the accused No.4 may amount to pre-trial conviction. It is submitted that considering his role, subject to appropriate conditions, he can be enlarged on bail. In my view, considering the material on record and the role attributed to the accused No.4, it would be just and improper to enlarge the accused No.4 on bail. The apprehension put forth by the learned APP can be taken care of by imposing appropriate conditions.

5. Accordingly, I proceed to pass the following Order:

ORDER

- (i) Applicant- Abid Ahamad Shaikh be released on bail in C.R.No. 567 of 2020 registered with Ambernath Police Station, on executing P.R.Bond in the sum of Rs.1,00,000/- (Rupees One Lakh only) with solvent surety in the like amount.

- (ii) Applicant shall not enter the entire Thane District, till the completion of the trial except for the purpose of attending the case, on the given date and that too by reporting his appearance at Ambernath Police Station, in advance.
- (iii) Applicant shall not in any way tamper with the prosecution evidence.
- (iv) Applicant shall not pressurize or threaten the prosecution witnesses and victim.

6. The Bail Application is allowed in the aforesaid terms and is accordingly disposed of.

(G. A. SANAP, J.)

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KILAJE

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by SONALI
SATISH KILAJE
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