

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2321 OF 2023

Rehman Ramzan Shaikh .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Ramnik Pawar i/b Ms.Samiksha Pawar for the applicant.
Mr.S.R. Agarkar, APP for the State.
PSI S.D. Patil from Shivaji Nagar police station.

CORAM: BHARATI DANGRE, J.
DATED : 17th OCTOBER, 2023

P.C:-

1 This is the second Bail Application filed on the ground of parity and it is sought to be canvassed by Mr.Pawar that the co-accused Razzak @ Aman Hussain Ramzan Shaikh is released on bail by this Court on 21/07/2023.

2 When in the first round, the Bail Application was permitted to be withdrawn and was disposed off i.e. 10/10/2022, reference was made to the CCTV Footage which reflected the involvement of the applicant in connection with the crime.

For the ground of parity, it is imperative that the co-accused must have been attributed a similar role but on perusal of

the order dated 21/7/2023, Justice Anuja Prabhudesai who was dealing with the application has specifically recorded in para 6.

“6 It is to be noted that as on the date of incident the applicant was only 19 years of age. The role attributed to him is that he was present at the place of incident. He was neither armed with any weapon, nor he had inflicted any injury on the deceased or on any other person. In fact, no overt act has been attributed to this applicant. He is in custody since 28/4/2020. It is stated that till date charge has not been framed. Considering the large pendency, there is no possibility of the trial being concluding in the near future.”

3 Hence, I fail to understand how parity would apply to the present applicant who is attributed a direct role in assaulting the injured as well as the deceased. For the sake of the satisfaction of the learned counsel, I have also perused the CCTV footage and though prima facie, it is not very clear as to what weapon he was holding or whether he was holding any weapon, his assault on the deceased is evident.

The aforesaid offence is committed with greatest brutality and though the juveniles were aggressive in the assault, since the applicant is seen in the footage, and he assaulted the complainant/injured, the learned counsel Mr.Pawar make a feeble attempt to submit that he was he was defending himself, I do not find substance in the argument specifically looking into the CCTV Footage. In any way, he is charged u/s.143, 145, 149 IPC and hence, once his presence is established, he will take the consequences of the acts which has resulted into death. Hence, I

am not inclined to extend the benefit of parity as claimed by Mr.Pawar and since on earlier application on being heard on merits and on expressing disinclination, it was permitted to be withdrawn, the present application must also meet same fate.

Application is dismissed.

(SMT. BHARATI DANGRE, J.)