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

BAIL APPLICATION NO.4231 OF 2021

Amit Shivaji Shelke

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Gaurav Bhawani with Mr. Afzal Nawaz and Mr. Abdul Wahab Khan
for the Applicant.

Ms A.A. Takalkar, APP for the Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th APRIL, 2023.

P. C. :-

1. This is an application under Section 439 of the Cr.PC. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.791 of 2021 pending on the file of learned Sessions Judge, Greater Bombay. The said case arises from Crime No.39 of 2020 registered with Kalachowki Police Station, Mumbai for the offences punishable under Sections 302, 297, 324 and 504 r/w 34 of the IPC.

2. Learned counsel for the Applicant states that apart from recovery of bamboo stick and blood stained clothes of the Applicant, there is no material to show the involvement of the Applicant in the

said crime.

3. Per contra, learned APP states that weapon of offence was recovered at the instance of the Applicant. Clothes worn by the Applicant on the relevant date were also recovered and sent to CFSL. Report of the CFSL states that the clothes are stained with human blood.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The aforesaid crime was registered pursuant to the FIR lodged by Sachin Kamble. The facts narrated in the FIR reveal that on 03/03/2020 at 11.30 p.m. he and the deceased were sitting at Cottongreen Skywalk. He has stated that three unknown persons came to the spot and asked the deceased to give Ganja. When the deceased informed him that he did not have ganja, one of the persons took away money from the deceased and when the deceased resisted, the said person inflicted blow of bamboo stick on the head of the deceased and others assaulted the deceased and the First Informant with kicks and blows. The First Informant has stated that when he was running away

from the spot of the incident, the Applicant gave a blow of the bamboo stick on his back and head.

6. The post mortem report reveals that the deceased had following injuries:-

(1) Lacerated wound over the right eyebrows from medial till lateral end of the right eyebrow of size 9 cm x 2 cm x bone deep.

(2) 5 cm x 2cm abraded contusion over the right cheek.

(3) 3 cm x 2cm abrasion over right nasal bone.

(4) Lacerated wound of size 0.5 cm x 0.5 cm x 0.5 cm muscle deep over upper lip midline below irregular margin.

(5) 1 cm x 1 cm contusion present on inner side of upper lip.

(6) 1 cm x 0.5 cm contusion over the lower lip.

The Doctor has opined that death of the patient was due to head injury.

7. The records reveal that the First Informant had not identified the Applicant in the Test Identification Parade. Nevertheless, in the course of the investigation, the wooden stick, which was used as

a weapon of the offence was recovered at the instance of the Applicant, as the per his disclosure statement. Similarly, clothes of the Applicant were also recovered. The bamboo stick and the clothes worn by the Applicant on the date of the incident were forwarded to the CFSL for examination. The report reveals that the stick and the clothes were stained with human blood. These circumstances would prima facie link the Applicant with the aforesaid crime, which is of serious nature. Hence, the application is dismissed.

8. Learned counsel for the Applicant states that the charge has been framed. Since the Applicant is in custody since last three years, learned Judge is directed to expedite the trial and conclude the same within 8 months from the date of receipt of copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)