

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3746 OF 2022

Siraj Alauddin Ansari

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Kushal Mor along with Mr. Rishab Khot, Advocate for the Applicant.

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

Mr. N. K. Sonawane, PSI, Bhoiwada Police Station, Bhiwandi, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.50 of 2022 registered with Bhoiwada Police Station for offences punishable under Section 302 of Indian Penal Code, 1860.

2. It is prosecution's case that dead body of one person was found in open ground in injured condition. The said body was lying under the heap of stones. On the basis of complaint, police registered offence against unknown person. In investigation, police arrested applicant in connection with the present crime.

3. It is the contention of learned counsel for applicant that

prosecution's case is based on circumstantial evidence. There is no recovery at the instance of applicant. Applicant has been falsely implicated in this case. The eye-witness who had stated that he had seen the applicant fighting with one person, on the next day, could not identify that, deceased was the same person with whom the applicant was fighting. Applicant is behind bar for more than 1½ year. Investigation is completed, charge-sheet has been filed. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant had assaulted the deceased with stones. There was fight between them. The incident was witnessed by friend of applicant – Sajid Ansari. He had seen that applicant was fighting with deceased. There is prima facie case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

In the statement, witness - Sajid Ansari has stated that on the day of incident, when he and other friends were collecting copper from the wire, at that time, applicant had gone to collect some material. As applicant did not return early, this witness saw in the

direction in which the applicant had gone. There he saw applicant was fighting with one person. Thereafter applicant came to them. At that time, applicant was in frightened condition. On next day, when this witness was on his way with applicant, he noticed gathering at one place. Someone told him that one person is murdered. This witness noticed that applicant was not ready to come at the spot of incident. Except this statement of witness, no material is produced on record to connect the applicant with the crime. It appears that the incident happened due to sudden quarrel. There was no premeditation. There is no recovery at the instance of the applicant. Applicant is behind bar for more than 1½ year, yet charge has not been framed.

6. Considering the above facts, applicant's further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail Crime No.50 of 2022 registered with Bhoiwada Police Station on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in

a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)