

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3495 OF 2022

Shubham Sanjay Modak

... Applicant

V/s.

State of Maharashtra

... Respondent

.....
Mr. Aniket Nikam a/w. Mr. Piyush Toshriwal i/b. Amit Icham,
Advocate for Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.
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CORAM : SHIVKUMAR DIGE, J.

DATE : 25th SEPTEMBER 2023

P C:-

1. This is second bail application preferred by the Applicant.
2. This Court (Coram:C.V.Bhadang, J.) by an order dated 05.04.2022 has disposed of earlier bail application of Applicant as withdrawn by the Applicant with request to expedite the trial. Liberty was granted to the Applicant to renew the request for bail, if there is no substantial progress in the trial, after six months.
3. It is the contention of learned Counsel for the Applicant that, Applicant is behind the bar almost 3 years and yet trial has not been

commenced. There was no role of the Applicant in the alleged crime. It is alleged that Applicant had beaten the deceased with first and blow except it nothing is incriminating against Applicant. Hence requested to allow the application.

4. Learned APP submitted that, Applicant was a main conspirator. Applicant along with other co-accused hatched a conspiracy and assaulted the deceased with sickle and sharp weapons, in the said assault deceased died. There is no change of circumstances to file this application, hence requested to reject the Application.

5. I have heard both the learned Counsel. Perused the FIR and charge-sheet.

6. It is the prosecution's case that on 20.11.2020 friend of first informant, Aniket was in need of money. They both had asked their friends to give money, but no one gave them money. Thereafter, Aniket received call from Applicant, and he called Aniket at incident spot stating that he will give money to him. Aniket first informant and other friend went to the spot as told by Applicant, when they reached there at that time Applicant came there, he took Aniket with him towards wall of temple, suddenly co-accused came there, Applicant pushed Aniket, due to that push Aniket fell on ground, at

that time co-accused assaulted Aniket with sickle, wooden bamboo. Applicant assaulted Aniket with fist and blows. When first informant and his friend tried to save Aniket, at the time Applicant told first informant and his friend that, they should go and he would do fix murder. In said assault Aniket died.

It appears from record that there was old dispute between Applicant and deceased. Applicant was the main kingpin, on assault of Aniket, he had called the deceased at incident spot on ground that he will give him money. Thereafter, he took deceased at one side, there he pushed deceased. When deceased fell on ground, other co-accused assaulted the deceased, when first informant and his friend tried to save deceased at that time, the Applicant threatened them. There is strong prima facie case against Applicant. Earlier, Applicant has withdrawn his bail Application. There is no change of circumstances.

7. In view of the above, I pass following Order:

ORDER

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)

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SATISH
KILAJE

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by SONALI
SATISH KILAJE
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