



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

5 BAIL APPLICATION NO. 147 OF 2024

KISAN GOVIND BENGAL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Rathi Swapnil S.
APP for Respondent/State : Mr.Satish A. Gaikwad
...

WITH
CRIMINAL APPLICATION NO. 762 OF 2024
IN BA/147/2024

SHAIKH SOHEL SHAIKH RASHEED
VERSUS
KISAN GOVIND BENGAL AND ANOTHER

...
Advocate for Applicant : Mr. Pathan Hamzakhan I.
APP for Respondent/State : Mr.Satish A. Gaikwad
.....

CORAM : SANJAY A. DESHMUKH, J.
DATED : 4th MARCH, 2024.

PER COURT :-

1. For the reasons stated in the application, Criminal Application No.762 of 2024 is allowed and stands disposed of.
2. The applicant is seeking bail under section 439 of the Criminal Procedure Code, 1973 (for short, "Cr.P.C."). The applicants have been arrested in connection with crime No.0147 of 2023 registered with Basamba Police Station, Taluka & District Hingoli, for the offences punishable under Sections 302, 324, 34, 212 of the

Indian Penal Code.

3. It is averred in the report that deceased Shaikh Sadik who is neighbourer of this applicant was keeping his ill eye on his wife and he was frequently watching to her. The applicant and his all other brothers are quarreling with him. On 06.06.2023, brother of the applicant Sheshrao, who was driving the auto rickshaw came infront of shop of witness Alim @ Salim Siraj Khan Pathan, where deceased Shaikh Sadik was sitting and talking with him tried to drove the auto rickshaw on the person of Shaikh Sadik. When questioned as to why he has drove the auto rickshaw on his person, the quarrel took place. After hearing noise of quarrel, the applicants came there and they started to assault Shaikh Sadik and his mother. Co-accused Sheshrao assaulted Sadik on his stomach. All other accused assaulted with iron rod. It is also alleged that the applicant has also assaulted by iron rod. Thereafter, Shaikh Sadik succumbed to the injuries.

4. The learned advocate for the applicant submitted that except Sheshrao, younger brother of the applicant, all other brothers are released on bail. The applicant is languishing in jail for more than 10 months. He is married and having family responsibility. The applicant has no criminal antecedents. He lastly prayed to grant this

application on the ground of parity that other co-accused are released on bail.

5. The learned APP for the State has strongly opposed the application and pointed out the statements of the witnesses. The learned advocate assisting to the prosecution pointed out the statement of eye witness Alim @ Salim Siraj Khan Pathan, who has narrated the entire prosecution's case and the manner in which the incident of murder took place. He further pointed out the postmortem report showing the nature of the injuries. Considering the nature of the crime, it is lastly prayed to reject the application as the parity cannot be invoked while allowing this applicant.

6. Perused the charge-sheet, particularly the report and statements of the witnesses and postmortem report. Statement of Alim @ Salim Siraj Khan Pathan, which was immediately recorded after the incident shows that this applicant assaulted to Shaikh Sadik by iron rod. Sheshrao, the brother of the applicant has used the knife for commission of murder of Shaikh Sadik. Considering the role of the applicant and bail granted to the co-accused by this Court vide order dated 5th December, 2023 in Bail Application No.2051 of 2023 and particularly similar role of this applicant entitling him bail on the ground of parity as well as considering all the facts and

circumstances of the case, particularly his role that he assaulted Shaikh Sadik by iron rod and not by the knife by which death of Shaikh Sadik is caused, the application deserves to be allowed on stringent conditions. Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No.0147 of 2023 registered with Basamba Police Station, Taluka & District Hingoli, for the offences punishable under Sections 302, 324, 34, 212 of the Indian Penal Code, be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence, in any manner.
- III. If the applicant commits breach of any of the above conditions, the trial Court is at liberty to proceed further to cancel his bail without reference to this Court.

(SANJAY A. DESHMUKH, J.)