

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1565 OF 2024

Sadik Shaha Rabbani Shaha

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. Radikar Akshay Suresh

APP for Respondent/State : Mr. S.P. Sonpawale

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CORAM : S.G. MEHARE, J.

DATED : OCTOBER 22, 2024

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant seeks bail in Crime No.450 of 2023 registered with Pahur Police Station, District Jalgaon for the offences punishable under Sections 307, 323, 504, 427 r/w 34 of the Indian Penal Code.
3. The prosecution case in brief is that another co-accused along with the present applicant assaulted the injured. The prosecution alleged that the present applicant had assaulted the injured with knife from backside to stomach. However, the applicant has a stand that he is not Rabbani Shaha Bashir Shaha, who had allegedly stabbed the injured. He is Sadik Shaha Rabbani Shaha. Since there was a confusion about the name of the applicant and

whether he was the assailant, time was granted to the investigation officer to verify the facts. However, the investigation officer did not instruct the learned APP. Hence, he is unable to find out the facts. If it is so, it would be very difficult to accept at his juncture the case of the prosecution that the applicant had stabbed the injured with knife. However, the weapon is shown to be recovered from the applicant. Since there was confusion about the actual assailant and considering the specific plea of the applicant that he did not stab the injured; he deserve bail. However, to Rabbani Shaha Bashir Shaha, the Court appears to have granted him bail under some misconception of facts. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Sadik Shaha Rabbani Shaha, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount in the above crime, on the conditions that ;
 - (a) The applicant should not tamper with the prosecution witnesses and should attend the trial on each and every effective date.
- (iii) The right of the learned APP is reserved to challenge this order directly before this Court for cancellation of bail if it is transpired that the applicant had stabbed the injured with knife

(3)

or if Rabbani Shah Bashir Shah was the author of the injury, the prosecution may apply for cancellation of bail before the learned Additional Sessions Judge.

(S.G. MEHARE, J.)