



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

42 BAIL APPLICATION NO. 1691 OF 2024

ASIF DAWOOD SHAIKH
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shaikh Faisal Naseemuddin
APP for Respondent/State : Mr.S.P. Sonpawale
Advocate for the victim : Mr.Harshal Prakash Randheer

...
CORAM : S. G. MEHARE, J.

DATE : 14th October, 2024.

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant seeks bail in Crime No.I-487 of 2023 registered with Bazarpeth Police Station, Tq. Bhusawal, Dist. Jalgaon, for the offences punishable under sections 302 read with 34 of the Indian Penal Code, section 4/25 of the Arms Act and section 37(1) and 135 of the Maharashtra Police Act.
3. The prosecution has a case that the applicant is one of the assailants, who caused death to the deceased. Witnesses are stating that the applicant was also holding sword and chasing the deceased on the spot. The applicant played a active role in the offence.
4. The learned counsel for the applicant would submit that the actual incident of assault has been captured in the CCTV. In that CCTV footage, the applicant did not seen holding any weapon. He was

just seen leaving the spot of the incident on bike. Therefore, the statements of the witnesses are exaggerated and those cannot be believed at this juncture. Prima facie, the evidence is not available against the applicant. He has been falsely implicated in the crime. Therefore, he may be granted bail.

5. The learned APP and the learned counsel for the victim vehemently argued that the actual incident was not captured in CCTV. The learned Additional District Judge has recorded the finding that the real spot of incident rather away from the building where the co-accused Sultana resides and at which building said CCTV camera no.3 was installed where from these CCTV footage were taken. Hence, the contention of the learned counsel for the applicant that in CCTV footage, the applicant did not seen holding any weapon is not sustainable. The Court is not agreeable with such findings because the facts are otherwise. It has also been argued that there is a direct evidence against the applicant. He caused death of the deceased by using the dangerous weapon. However, nothing is recovered from him.

6. Perused the papers. Though the eyewitnesses have attributed active role to the applicant, CCTV footage is otherwise. He did not captured holding any deadly weapon in his hand. He was just captured running away from the spot of incident on the bike. At this juncture, the evidence of CCTV footage would prevail over the oral statements of the witnesses because exaggerating the allegations is a human

tendency. No weapon is recovered from the applicant. Therefore, he deserves bail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **ASIF DAWOOD SHAIKH** 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, for the aforesaid offences, on the following conditions :
 - (a) The applicant should not tamper with the prosecution witnesses.
- (iii) Criminal Application No. 4305 of 2024 stands disposed of.

(S.G. MEHARE, J.)