

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1635 OF 2024
WITH
CRIMINAL APPLICATION NO. 4020 OF 2024
IN BA/1635/2024

Mohammad Riyaz @ Don Mohammad Anis
VERSUS
The State Of Maharashtra

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Advocate for Applicant : Mr. Rohit P. Patwardhan h/f Mr. S.S. Jadhav
APP for Respondent/State : Mr. A.A.A. Khan
Advocate for Complainant : Mr. Rajendra D. Sanap

WITH
BAIL APPLICATION NO. 2071 OF 2023
WITH
CRIMINAL APPLICATION NO. 3278 OF 2024
IN BA/2071/2023

Ali Sultan Chous
VERSUS
The State Of Maharashtra

...

Advocate for Applicant : Mr. N.L. Jadhav a/w Mr. R.C. Brahmkar
APP for Respondent/State : Mr. A.A.A. Khan
Advocate for Complainant : Mr. Rajendra D. Sanap

WITH
BAIL APPLICATION NO. 2073 OF 2023
WITH
CRIMINAL APPLICATION NO. 3280 OF 2024
IN BA/2073/2023

Naser Sultan Chous
VERSUS
The State Of Maharashtra

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Advocate for Applicant : Mr. N.L. Jadhav a/w Mr. R.C. Brahmkar
APP for Respondent/State : Mr. A.A.A. Khan
Advocate for Complainant : Mr. Rajendra D. Sanap

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CORAM : S.G. MEHARE, J.

DATED : OCTOBER 08, 2024

PER COURT:-

1. Heard learned counsels for the applicants, learned APP for the State and learned counsel for the victim/complainant.
2. The applicants seek bail in Crime No.28 of 2022 registered with CIDCO Police Station, District Aurangabad for the offences punishable under Sections 302, 143, 147, 148, 149, 201, 120-B of the Indian Penal Code.
3. The earlier bail applications of the applicants were rejected on merit. However, the applicants are claiming bail for uncertain incarceration. In view of the order of the Hon'ble Supreme Court dated 12.08.2024 granting bail to the co-accused Aquib @ Golden Qureshi, because of his long incarcerated for more than two years, the applicants are seeking parity.
4. Learned APP and learned counsel for the victim have strongly opposed the applications. They would submit that the rule of indefinite incarceration would not apply to the applicants because they have played an active role in committing the murder.
5. This Court has already considered each facts of the case and declined the bail to the applicants. The Hon'ble Supreme Court considered the facts and circumstances of the case. So, it cannot be

said that the rule of Supreme Court granting bail would not apply. The applicants are seeking bail on the sole ground of longer incarceration, supported with the order of the Hon'ble Supreme Court dated 12.08.2024.

6. The Hon'ble Supreme Court while granting bail to the co-accused Aquib @ Golden Qureshi has specifically observed that "considering the facts and circumstances of the case and in particular the period of incarceration already undergone by the petitioner which is more than two years and nine months, we are inclined to grant bail to the petitioner."

7. It cannot be accepted that the bail was not granted solely on the facts and circumstances of the case. However, the bail was particularly granted considering the period of incarceration. The applicants are also incarcerated for about the same period. The rule of the Hon'ble Supreme Court binds the Courts. Therefore, the applicants deserve bail. Hence, the following order :

ORDER

- (i) All Bail Applications are allowed.
- (ii) All the respective applicants in respective bail applications, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each in the above crime, on the condition that ;

(4)

- (a) The applicants should not tamper with the prosecution witnesses and should attend the trial on each and every date.
- (b) The applicants should not enter the vicinity where the deceased and his relatives are residing till the trial is concluded.
- (iii) All Criminal Applications stand disposed of.

(S.G. MEHARE, J.)