

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.4152 OF 2023

Salim Babumiya Shaikh

Applicant

versus

The State of Maharashtra

Respondent

Mr.A.PMundargi, Senior Advocate, i/by Mr.Abhijit B.Kadam,
Advocate for Applicant.

Mrs.Geeta P.Mulekar, APP, for State.

CORAM : ANIL S.KILOR, J.

DATE : 1st July 2024

PC :

1. Heard.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.34 of 2022 registered with Phaltan Police Station, District Satara for the offences punishable under Sections 302, 307, 323, 324, 143, 147, 149, 188 and 269 of the Indian Penal Code r/w Sections 4 and 25 of Arms Act r/w Section 51(B) of Disaster Management Act, 2005.

3. The allegations in the present matter are of commission of murder of the deceased and assault to the injured witness.

4. Mr.Mundargi, Learned Senior Advocate, submits that even if the story narrated by the eye witnesses is taken as it is, there are no corresponding injuries particularly as regards the allegations against Applicant that he inflicted a blow by sword.

5. It is pointed out that the opinion dated 17th January 2022 given by the medical officer states that the injuries caused to the

deceased and the injured one, are possible by wooden log and iron pipes. However, subsequently another opinion was obtained on 17th January 2022, wherein it was opined that such injuries are possible by use of sword from the other side of it i.e. from not the sharp edged side. He therefore submits that it is not possible that a person who is using sword will not use it from the sharp edged side. Accordingly it is submitted that it creates doubt about the veracity of the prosecution story and the role of the Applicant.

6. It is further submitted that Applicant is highly reputed person who is an elected Corporater and therefore there is no possibility that he will not be available for trial. Accordingly he prays that application may be allowed.

7. Learned APP Mrs.Mulekar on the other hand strongly opposed the application. She submits that there are three eye witnesses and out of it one is the injured one.

8. It is further submitted that a sword was recovered from the Applicant along with clothes having blood stains. She further submits that as the offence is very serious and there is one antecedent. Moreover, considering his status in the society, there is every possibility that he may pressurize and influence the prosecution witnesses. Accordingly she prays for dismissal of the application.

9. Having considered the charge sheet and material collected by the Investigating Officer during the investigation it is evident that there are eye witnesses including the injured one who have narrated complete incident including the specific role played by each of the accused persons.

10. So far as far as role of the present Applicant is considered, he

played the main role and it appears that at his instance other accused persons assaulted the deceased and the injured.

11. Thus considering the specific role attributed to the Applicant and recovery besides other evidence which shows involvement of the Applicant, I am of the view that this is not the fit case for grant of bail.

12. Moreover, there is every possibility that if the Applicant is released on bail he may influence or pressurize the witnesses and in that case there will not be a fair trial. In the circumstances Bail Application is rejected.

13. At this stage Mr.Mundargi, learned Senior Advocate, prays for liberty to move afresh after one year if there is no progress in trial. Liberty is granted to move afresh after one year before Trial Court, if there is no progress in the trial.

(ANIL S.KILOR, J.)

MST