



Diksha Rane

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**BAIL APPLICATION NO.3944/2022
WITH
INTERIM APPLICATION NO.641/2023
IN
BAIL APPLICATION NO.3944/2022**

AZIMSHAD S/O. AMIRSHAD KHAN ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.1877/2023
IN
BAIL APPLICATION NO.3944/2022**

KARIM ABDULLA KHAN ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Rajendra Rathod a/w. Adv. Subhash Hulyalkar, Adv.
Akashay Mishra i/b. Hulyalkar & Associates for the applicant.
Adv. K. r. Shah a/w. Adv. Rishaa Rathod for the original
complainant/intervener.
Mr. S. A. Karmakar, APP for the State.
API Pawar present.

CORAM : M. S. KARNIK, J.

DATE : MARCH 12, 2024.

P.C. :

1. Heard learned counsel for the applicant, learned APP
for the State and learned counsel for the original
complainant/intervener.

2. This is an application for bail in respect of the offence punishable under Sections 302, 201, 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 21/12/2018 vide C.R. No.579/2018 with Vakola Police Station.

3. The date of the incident is 21/12/2018. The applicant is the son of the co-accused Amirshad Khan. The co-accused Amirshad Khan and the deceased were neighbours. Amirshad Khan was the chief promoter of the SRA project which was commenced by Rizvi Builders. Even the deceased was a member of the managing committee of the said society. Initially, the task of looking after the project was assigned to co-accused Amirshad Khan, the applicant's father. However, later the said task was assigned to the deceased by Rizvi Builders. This resulted in strained relations and enmity between the applicant's father and the deceased over the issue of re-development of the SRA project. It is alleged that on 21/12/2018, the applicant and other co-accused assaulted the deceased. One of the co-accused threw chilly powder in the eyes of the deceased and rest of the accused then assaulted the deceased with

knife and other sharp edged weapons. The statement of the eye witness which is at page 78 of the paper-book reveals the specific role attributed to the applicant. The applicant assaulted the deceased with a knife. After the accused stabbed the deceased, the applicant called upon the other accused to slit the throat of the deceased. It is alleged by the eye witness that the applicant slit the throat of the deceased.

4. Learned counsel for the applicant submitted that the applicant was arrested on 24/12/2018 and is in custody for more than five years and two months. It is submitted that 83 witnesses are to be examined. He submits that the trial is not likely to commence and conclude any time soon. It is submitted that even the charge is not framed. The bail is sought on the ground of long incarceration.

5. The application is opposed by learned APP and learned counsel for the original complainant/intervener.

6. I am informed that the trial Court is proceeding to frame charge as the parties are being heard on the aspect of framing of charge. The trial is listed tomorrow. In the facts and circumstances of the present case, I am not inclined to

enlarge the applicant on bail though the applicant is in custody for more than five years and two months considering the gravity of the offence and the brutality of the assault. *Prima facie*, the materials available on record is indicating the complicity of the applicant.

- 7.** The bail application is rejected.
- 8.** The trial Court is requested to consider expediting the trial as it is now in the process of framing of charge.
- 9.** Liberty to apply for bail after sometime if there is no sufficient progress in the trial.
- 10.** The bail application is disposed of.
- 11.** In view of the disposal of the bail application, the interim applications are also disposed of.

(M. S. KARNIK, J.)