

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 779 OF 2024

AJINKYA ANANT SHINDE

...APPLICANT

VS

STATE OF MAHARASHTRA

...RESPONDENT

....

Mr.Vikas Kolekar, Advocate for the Applicant.

Mr. Anant S. Shalgaonkar, APP for the Respondent – State.

....

CORAM : PRAKASH D. NAIK, J.

DATE : 17th APRIL 2024

P.C.:-

1. The applicant is arrested on 1st July 2018 in connection with C.R. No. I-291 of 2018 registered with Panvel City Police Station, Dist. Raigad for offence punishable under Section 302 read with 34 of the Indian Penal Code, 1860.

2. The case of the prosecution is that on 30th June 2018, the victim/complainant was waiting at rickshaw stand. Accused Avi alias Ajinkya Shinde spoke to the victim and told him that he want to travel at Karanjade and the fare was fixed at Rs.60/-. He boarded rickshaw. The victim dropped him at Karanjade. He paid Rs.50/- towards the fare

although, it was fixed to be Rs.60/-. The victim demanded the balance amount. Accused Avi alias Ajinkya told him that he is associate of Rajesh Kaikadia and slapped him. The victim also slapped him. Thereafter, the victim went towards Panvel railway station and was waiting at rickshaw stand. At about 22:30 hrs., he went for smoking cigarette. Avi alias Ajinkya Shinde came and questioned him as to why he charges heavy fare and left the place. After some time, Ajinkya Shinde, Babu Kaikadia and two other persons approached the victim. Ajinkya Shinde assaulted him with iron rod in his head. As a result the victim fell down. Babu Kaikadia assaulted by knife and two other persons assaulted the victim by fist blows. Babu Kaikadia then assaulted him on head. The mother and wife of the victim reached the spot. Babu Kaikadia also assaulted his mother and all of them fled away from the place of incident. The victim was taken to the hospital. His statement was recorded, which was treated as First Information Report. Subsequently, victim succumbed to the injuries and charge under Section 302 of IPC was invoked.

3. The previous application for bail was rejected by this Court vide order dated 20th December 2019.

4. Learned Advocate for the applicant submitted that, the applicant is in custody for about five years and ten months. The role attributed to the applicant is that, he had assaulted the victim with iron rod by giving blow

on his head. However, there are no corresponding injuries qua the assault attributed to the applicant. Reliance is placed on the injury certificate and post-mortem report. It is submitted that, except the applicant and Babu Kaikadia, all the other accused are on bail. Although, charge is framed on 21st October 2022, the prosecution has examined only one witness on 1st March 2024. The applicant cannot be kept in custody for indefinite period. The applicant is not having any criminal antecedents. He was involved in one case which has resulted in acquittal.

5. Learned APP submitted that, previous application was rejected by this Court. There is no change in circumstance. The trial has commenced. On instructions, the prosecution has examined two witnesses. Trial may be expedited. The offence is of serious nature. The evidence of the witnesses attributes the specific role of the applicant being a person, who started the quarrel which resulted in assault upon the victim.

6. From the roznama produced by learned Advocate for applicant it appears that, the prosecution has so far examined only one witness. The applicant is in jail from 1st July 2018. The applicant had allegedly assaulted by iron rod. The cause of death certificate indicate that, the death was due to cardio respiratory failure due to internal abdominal haemorrhage which leads to haemorrhagic shock due to peretral wound of spleen due to homicide. The applicant had allegedly assaulted the victim by giving

blow on the head by iron rod. Post-mortem report indicate that, the victim had suffered stitch wound. Learned Advocate for the applicant urged that the wound cannot cause by the iron rod.

7. The applicant is in jail for a substantial period of time. In the light of factual matrix as stated above and period of custody, bail can be granted to the applicant.

ORDER

- (i) Criminal Bail Application No. 779 of 2024 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-291 of 2018 registered with Panvel City Police Station Dist. Raigad, on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall stay out the jurisdiction of Panvel City, till conclusion of trial.
- (iv) The applicant shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court for some reason.
- (v) The applicant shall furnish the details of his residence after he is released on bail to the Investigating Officer.
- (vi) Application stands disposed off.

(PRAKASH D. NAIK, J.)