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

BAIL APPLICATION NO.811 OF 2024

BABA @ SAHIL LAXMAN SHINDE
VS.

..APPLICANT

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Shailesh S. Kharat for the applicant.

Mr. S. V. Walve, APP for the State.

API Shyam Maske, Talegaon MIDC Police Station.

CORAM : M. S. KARNIK, J.

DATE : MARCH 19, 2024

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 302, 364, 201, 120-B of the Indian Penal Code (hereafter 'IPC' for short), under Sections 4(25) of Arms Act and under Sections 37(1), 135 of Maharashtra Police Act registered on 25.06.2019 vide C.R. No.93 of 2019 with Talegaon MIDC Police Station.

3. The applicant is the accused No.1. The applicant was arrested on 23.06.2019. C.R. No.30 of 2019 was registered

with MIDC Police Station for missing person. The crime branch got an information that there was a dispute between the applicant - Baba @ Sahil Shinde and applicant's friends namely Saurabh Jalindar Khedekar, Amit Balasaheb Sathe and juvenile Sahil Mhasalkar with the missing person namely Swapnil Sutar (deceased) and Ajit Shinde. During preliminary enquiry it was revealed that on 18.05.2019 the applicant along with his three female friends namely 'S', 'S', 'A' and two others had gone to Alibaug for a trip. The photos of the said trip were uploaded by one of the friend in the status of his whatsapp, which were viewed by Ajit Shinde. This was not liked by one of the relative of the said girls who had gone for the said trip. On 19.05.2019, Ajit Shinde and Swapnil Sutar (deceased) went to meet the applicant and told him that he should not hereafter continue his friendship with 'A'. There was heated argument. Ajit Shinde and the deceased-Swapnil Sutar assaulted the applicant. It is thereafter alleged that because of this bitterness, the applicant and other accused killed the deceased- Swapnil Sutar.

- 4.** Learned APP opposed the application for bail.
- 5.** The applicant was arrested on 23.06.2019. Post his arrest at the instance of the applicant a knife which was not stained with blood was recovered. Prior to the arrest it is the prosecution case that at the instance of the applicant the dead body was found.
- 6.** Learned counsel for the applicant relied upon the decision in Rajesh and Anr. vs. State of Madhya Pradesh¹ to submit that exception under Section 27 of the Evidence Act would not be applicable as the body was discovered at the behest of the applicant prior to the arrest.
- 7.** The case is based on circumstantial evidence. I am inclined to enlarge the applicant on bail in the facts and circumstances of the present case as the applicant is in custody for a period of more than four years and nine months. Even the charge has not been framed. There is one criminal antecedent bearing C.R. No.269 of 2019 reported against the applicant under Sections 326, 325, 323, 504, 506 read with 34 of the Indian Penal Code. In my opinion

¹ Criminal Appeal No(s).793 of 2022 dt. 21.09.2023.

the antecedent by itself should not be a factor to deprive the applicant the facility of bail. I am inclined to enlarge the applicant on bail but by imposing conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Baba @ Sahil Laxman Shinde in connection with C.R. No.93 of 2019 registered with Talegaon MIDC Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Talegaon MIDC Police Station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall furnish his contact number and residential address to

the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the area of Talegaon MIDC Police Station after being released on bail, till the trial concludes.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

8. The application is disposed of.

(M. S. KARNIK, J.)