

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1387 OF 2024

Sahil Isak Shaikh .. Applicant
Versus
State of Maharashtra .. Respondent

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Mr. Akshay Bankapur, for the Applicant.
Smt. K.T. Hiwrale, APP for the Respondent-State.

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SANDEEP
TALWALKAR

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CORAM: BHARATI DANGRE, J.
DATED : 23rd APRIL, 2024

P.C:-

1. The applicant faced accusation in C.R. No. I-293 of 2020 for the offence punishable under section 302, 307, 323, 504, 506, 143, 147 to 149, 188, 269 and 270 of the Indian Penal Code and under Section 4(25) of Arms Act. He is arrested on 17th June, 2020 and on completion of investigation charge-sheet has been filed on 11th September, 2020, though he still remained incarcerated.

On an earlier occasion, his application for bail was rejected on 23rd September, 2022 on the ground that there

is a discovery attributed to him and 6 Eye-witnesses to the incident have attributed an active role to him in the commission of crime. It had clearly surfaced, that he alongwith Arun Mali, were armed with deadly weapons.

2. On passage of time and since co-accused Rohit Shirsat is enlarged on bail, the applicant has once again knocked the doors of this Court.

With the able assistance of the learned Counsel for the applicant the learned APP, I have perused the Charge-sheet.

The complainant is one Akash Sejwal who has narrated to the incident by stating that on 16th June 2020 at 8.30 pm. he alongwith his friend Chetan Bairagi(the deceased) were enroute to their homes and at that time, birthday of Sahil Shaikh i.e. present applicant was being celebrated on the road when they honked to give a way, the nine named persons and 2 to 3 unknown persons are alleged to have assaulted them.

Worth to note that supplementary statement of the complainant is recorded on 2nd July, 2020, i.e. almost 15

days after his first statement is recorded and he has improved his version, by stating that Sahil, i.e. present applicant was armed with sword which he used for cutting of the cake but Arun Kiran Mali, the co-accused who was armed with knife and he assaulted his friend Chetan and himself by means of knife, whereas other persons mounted assault by fists and blows, which resulted in death of Chetan.

The knife used by Arun Mali and the sword which Sahil, was carrying was recovered.

3. The injury certificate of the complainant refer one stab injury and one CLW on the gluteal region, which is not classified as a grievous injury as it can be seen that on the incident having taken place and he being taken to Civil Hospital, Nashik, he was discharged on the very next day.

The post mortem report of the deceased refer to stab injuries in Column 17 and the cause of death is opined, to be on account of heamorrhagic shock due to stab injuries to abdomen, and which were found to cause death in ordinary course of nature.

The weapon with which the injuries were caused was described as single edged sharp pointed weapon.

4. The Counsel for the applicant invited my attention to the statements of one Sachin Vinchu, Jeevan Pagare and Sidharth Jorwekar and Saurabh Shinde, who in unequivocal words have described happening of the incident dated 16th June, 2020 and they have unequivocally stated that it is Arun Mali who was armed with a knife and he mounted assault on Chetan Bairagi and Akash Sejwal resulting into serious injuries, leading to the death of the former.

Admittedly, it is not the applicant who is the author of the injuries and though the witnesses have stated that he was armed with sword, there is not a single witness who has stated that he mounted any assault by means of the sword.

Being incarcerated for almost 4 years and since trial has not yet commenced, the applicant cannot be further incarcerated awaiting the trial.

Subject to the condition that he shall not tamper with the evidence of the prosecution case or its witnesses, he

deserve to be released on bail.

5. Hence following order :

: ORDER :

- (a) Application is allowed.
- (b) Applicant Sahil Isak Shaikh shall be released on bail in connection with C.R.No. I-293 of 2020 registered with Lasalgaon Police Station, Tal. Niphad, District- Nashik on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall mark his attendance before the concerned police station once in a week between 5 p.m. to 6 p.m. till framing of charge and, thereafter, shall abide by the directions issued by the trial Court.
- (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.

(SMT. BHARATI DANGRE, J.)