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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2098 OF 2023

Shubham @ Palm Ajay @ Raneshwar Shinde ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Sana Raees Khan alongwith Mr. Aditya Parmar for the Applicant.
Mr. N.B. Patil, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 16 FEBRUARY 2024

P.C. :-

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 312 of 2018 registered at Yerwada Police Station, Pune for the offence punishable under Sections 302, 307, 506 of Indian Penal Code.

3. According to the prosecution, on the date of incident, which took place on 5 May 2018, the present applicant assaulted the deceased by cricket bat and committed his murder.

4. I have heard the learned Counsel for the applicant and the learned APP for the State.

5. The learned Counsel for the applicant submits that there was no previous enmity between the present applicant and the deceased. It is submitted that prosecution's own case is that on the date of alleged incident the applicant was quarrelling with two unknown persons in

front of the house of the deceased. He told them not to quarrel in front of their house. It is submitted that according to the prosecution, the applicant got annoyed and assaulted the deceased by cricket bat. It is submitted that even if the case of the prosecution is accepted as it is, at the most it would constitute the offence punishable under Section 304 of the IPC. It is submitted that the applicant is in jail for more than 5½ years & inspite of order of this Court dated 31 January 2023 in Bail Application No.303 of 2021 filed by the applicant, to conclude the trial as early as possible, the trial has not commenced. It is further submitted that there are no other criminal antecedents. The learned Counsel for the applicant submits that applicant therefore, may be released on bail.

6. On the other hand, the learned APP submits that the applicant is involved in serious offence of murder. There are eye-witnesses to the incident. It is further submitted that the applicant has assaulted the deceased on the vital part of his body. It is submitted that considering the nature of offence, the applicant may not be released on bail.

7. The fact that applicant is in jail for more than 5½ years is not disputed. Even after lapse of one year from the date of order passed by this Court to conclude the trial as early as possible, there is no progress in the trial. Considering the overall facts and circumstances coupled with the fact that there are no other criminal antecedents, I am inclined to release the applicant on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicant be released on bail in Crime No. 312 of 2018 registered at Yerwada Police Station, Pune for the offence punishable

under Sections 302, 307, 506 of Indian Penal Code on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(iii) The applicant shall attend the concerned police station once in a month i.e., on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of trial.

(N.R. BORKAR, J.)