



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

BAIL APPLICATION NO. 3723 OF 2021

JAVED SARVAR SHAIKH @ CHINA	.. APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Ms.Sana Shaikh a/w Ms.Maya Updeshe, Mr.Pratik Thadani,
Kulsum Shah, for the applicant.
Smt. Megha Bajoria, APP for the State.
PSI- Mr.Shekhar Pawar, R.A.K. Marg police station, Mumbai
present.

CORAM : M. S. KARNIK, J.

DATE : APRIL 17, 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, 307, 323, 506, 504 read with 34 of the Indian Penal Code, 1860 registered on 25/08/2019 vide C.R. No.217 of 2019 with Shivaji Nagar police station.
- 3.** There are 2 accused in all. The applicant is the accused no.1. The date of the incident is 24/08/2019. The

applicant was arrested on 25/08/2019.

4. The prosecution case is that the applicant along with the co-accused demanded cigarettes on credit from the complainant's father i.e. pan-shop owner. The pan-shop owner refused to provide cigarettes therefore there was some exchange of words between pan-shop owner and the accused. The applicant again visited the pan shop at 10.30 p.m. when the quarrel started between the pan-shop owner and the accused. It is the allegation that the accused no.2 caught hold of the deceased. The applicant picked up a tile lying nearby and gave 2-3 blows on the head of the deceased. The deceased succumbed to the injuries on 29/08/2019. Learned counsel for the applicant contended that from the incident, it cannot be said the applicant had any intention to cause death of the deceased. It is further submitted that the applicant had no enmity with the deceased.

5. Learned APP on the other hand submitted that there are eye-witnesses to the incident. It is submitted that the applicant is author of the injuries. It is further submitted that the medical report corresponds with the eye-witnesses

account and hence, considering the gravity of the offence, the application be rejected.

6. The applicant was arrested on 25/08/2019 and now in custody for 4 ½ years. I am informed that even charge has not been framed so far. The trial is not likely to conclude any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In my opinion, the applicant does not appear to be a flight risk. In the facts and circumstances of the case, the applicant can be enlarged on bail by imposing stringent conditions. Learned counsel for the applicant submitted that the applicant is willing to reside outside the jurisdiction of Mumbai and Mumbai suburban districts to allay the apprehension of learned APP that the applicant may threaten the witnesses. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Javed Sarvar Shaikh @ China in connection with C.R. No.217 of 2019 registered with Shivaji Nagar police station shall be released on bail on

his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.

(c) Except for the purpose of attending the trial, the applicant shall not enter the area of Mumbai/ Mumbai Suburban district till the conclusion of the trial.

(d) The applicant shall report to the police station which is nearest to the place of his residence while residing outside Mumbai/Mumbai Suburban district once a month i.e. on the first Monday of every month between 10.00 a.m. and 1.00 p.m.

(e) The applicant shall inform the trial Court as well as the investigating officer the contact details as well as residential address while residing outside Mumbai/Mumbai Suburban district.

(f) It is made clear that any attempt on the part of the applicant to contact, influence or threaten the witnesses shall afford a ground to the prosecution or complainant to apply for cancellation of bail.

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

7. The application is disposed of.

(M. S. KARNIK, J.)