

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

BAIL APPLICATION NO. 627 OF 2024

Jaid Asif Shaikh

...Applicant

Vs.

The State of Maharashtra

...Respondent

Ms. Sana Raees Khan with Aditya Parmar, Ruchita Rajpurohit and
Chaitanya Menon, Advocate for Applicant.

Ms. Priyanka Rane, APP for State-Respondent.

CORAM:- ANIL S. KILOR, J.

DATED:- 11th JULY, 2024

PC:-

- 1) Heard.
- 2) By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.7 of 2023, registered with Kondhava Police Station, Dist. Pune, for the offences punishable under Sections 302 and 201 of Indian Penal Code, 1860.
- 3) The learned Counsel for the applicant submits that there is no evidence against the applicant to connect him with the alleged offence. The witnesses on which the prosecution has relied are brought up of witnesses. It is further submitted that the CCTV footage on which the prosecution relied upon is not of the date of incident, whereas the

incident is of 2nd January, 2023 in the morning. She further submits that there are discrepancies in the recovery of the motorcycle which does not stand in the name of the applicant. She further argues that if the statement of mother of Ayan Sayyed is considered, in that case, it was mandatory for the prosecution to record the statement of Ayan, which has not been recorded. She therefore submits that the applicant is in jail from one and half years and in the meantime charge-sheet has been filed. She further submits that there is no eye witness of the incident and as the weapon was recovered from the open place, such evidence is not reliable in view of the judgment of the Hon'ble Supreme Court of India in the case of *Manjunath and Others vs State of Karnataka*¹, accordingly, she prays for grant of bail.

4) On the other hand, the learned APP points out that the evidence collected by the Investigating Officer during the investigation which according to the learned APP connects the applicant with the alleged offence. It is pointed out that there is CCTV footage as well as statements of witnesses who have lastly seen the applicant with the co-accused Ayan before the incident.

5) In light of the rival submissions, I have perused the charge-sheet and the material collected by the Investigating Officer during the investigation and having considered so, it is evident that the mother of the Ayan categorically stated in her statement that the present applicant on 1st January, 2023, took Ayan with her and thereafter there is a CCTV footage which supports the case of the prosecution that the applicant and the co-accused Ayan, a juvenile, they were seen together. They purchased Beer from a wine shop and there are statements of the

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Rikshaw drivers, who have seen the applicant with the juvenile talking with the deceased woman at spot of the incident. Furthermore, there is a vehicle seized from the spot and blood stains were found on it.

6) The learned APP points out that the said vehicle stands in the name of the brother of the applicant.

7) As far as the recovery from the open space is concerned, there is no dispute about the judgment of the Hon'ble Supreme Court of India saying that such recovery is not reliable. However, it is a matter of trial.

8) Furthermore, the discrepancies in the statements of witnesses or the argument that some of the witnesses are the brought-up witnesses, are the matter of evidence.

9) In the circumstances, if prima facie material collected by the Investigating Officer is considered, there is incriminating material available on record to show the involvement of the applicant in the alleged offence. The offence is very serious and thus considering the nature of evidence and the seriousness of the offence, I am not inclined to grant bail.

10) Accordingly, the Bail Application is rejected.

[ANIL S. KILOR, J.]