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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3156 OF 2024

Rehman Sarfaraj Shaikh @ Sunny

... Applicant

vs.

The State of Maharashtra

... Respondent

Mr. Satyaram R. Gaud, a/w. Shikhani Shah & Maniram R. Gaud	Advocate for the Applicant
Mr. A. S. Gawai, APP	for the Respondent-State
Mr. Vinod Vaigankar	PSI, Tulinj Police Station, Palghar

CORAM : S. M. MODAK, J.

DATE : 12th SEPTEMBER 2024

P. C. :-

1. Heard learned advocate for the Applicant and learned APP.
2. Applicant's earlier Bail Application was rejected on 6th June 2023. There are nine accused persons, eight are on bail. Earlier it was rejected because there are serious allegations against this Applicant. It is due to the blow given by this Applicant with the knife. The deceased-

Imran succumbed to the injuries. Liberty was granted to move again, if the trial is not started within one year. Copies of roznama are annexed. Now the matter is fixed on 1st October 2024 for framing of charge. Even the Accused is not produced from jail. He can be produced through video conferencing. Even though, other bail out accused asked for exemption can be rejected because this Applicant is in jail.

3. Learned APP opposed the bail on the ground of merits including eyewitnesses and recovery and the offences is serious. At the most he prayed for expediting the trial.

4. Mr. Gaud, learned advocate for the Applicant relied upon the following judgments:

(a) Chintan Vidyasagar Upadhyay vs. The State of Maharashtra¹.

(b) Javed Gulam Nabi Shaikh vs. State of Maharashtra & Anr².

5. Certainly, on merits he is not entitled for bail. My attention is invited to the statements of some of the witnesses. It is contended that the dispute arose on account of fetching of tap water. The main dispute was in between Azaz who is the brother of the first informant Mohammed Iqbal one hand and Fulwar Shaikh and Sons. The

1 2022 ALL MR (Cri) 1888 (S.C.)

2 2024 ALL MR (Cri) 2882 (S.C.)

deceased-Imran is the son of the first informant-Mohammed Iqbal Yasinali Idrishi. The main incident took place at about 10:00 pm on 17th May 2021. Earlier to this, there is an altercation on account of fetching of tap water. It is in between Fulwar Shaikh-Co-accused and Azaz-brother of first informant Mohammed. Apart from the deceased, one Yakub is also injured. The assailant is Co-accused Imran. Whereas the present Applicant assaulted the deceased-Imran with knife. When the Hon'ble Supreme Court says that Bail is rule and jail is the exception, it has to be given effect to. The Applicant is behind bar since May 2021. Until now the charge is not framed. This is not such kind of murder, wherein there was pre-planning and some dispute with Waris brother of the first informant one hand and this Applicant on the other. Ultimately the Court has to balance in between right of the prosecution and the personal liberty of the accused.

6. Considering the seriousness and the role, the Applicant was not granted bail. But now the circumstances warrant me to grant him bail.

7. Hence the order:

ORDER

(a) The Bail Application is allowed;

- (b) The Applicant-Rehman Sarfaraj Shaikh @ Sunny is released on bail in connection with C.R. No. I-641 of 2021, registered with Tulinj Police Station, Palghar under Sections 302, 307, 323, 324, 143, 145, 147, 148, 149 323, 504 & 509 of the Indian Penal Code, 1860 on furnishing personal bond and surety bond of Rs.50,000 [Rupees Fifty Thousand] with one or more sureties in the like amount.
- (c) He is directed not to threaten the prosecution witnesses.
- (d) He is directed to give attendance to Tulinj Police Station, Palghar after released on 2nd Monday of the month of October, January, and June from 10:00 am to 12:00 noon for two years.
8. If the Applicant breaches the condition, the prosecution is at liberty to apply for cancellation of bail.
9. Bail Application is disposed of.

[S. M. MODAK, J.]