

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1710 OF 2024

Arman Alim Shaikh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Vaibhav Gaikwad a/w. Mr. Yash M. Naik, Advocates for Applicant.
 - Mr. Hitendra J. Dedhia, APP for Respondent.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 18, 2025

P.C.:

1. Heard Mr. Gaikwad, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.345 of 2019 registered with Bhiwandi Police Station for offences punishable under Sections 302 and 201 of the Indian Penal Code, 1860 (for short '**IPC**') and is incarcerated for past 5 years 6 months and 3 days since 15.09.2019.

3. *Prima facie* perusal of charge-sheet and records shows that Applicant is brother-in-law of deceased-victim and they were both residing together in the same room and a quarrel ensued between them on the issue of money. The same is reflected in the some of the witness statements. However, in so far as the incident in question is

concerned, Applicant was last seen in the Company of the deceased – victim by a witness who has recorded his statement and the nature of evidence against Applicant is therefore circumstantial in nature. From the post-mortem report, it is *prima facie* seen that deceased – victim received 7 injuries on his person. Allegation is that Applicant used an iron rod according to the prosecution which has been recovered by the prosecution.

4. *Prima facie*, report shows homicidal death due to hemorrhage shock due to injury suffered by blunt object. The only reason which appeals this Court is the long incarceration of Applicant pending trial.

5. Mr. Dedhia, learned APP informs the Court that charges have been framed. However trial is yet to commence. Out of the probable substantial number of witnesses that prosecution would desire to examine, it is inevitable that trial will take some time to commence, as also complete in the near foreseeable future.

6. Mr. Gaikwad draws my attention to the order dated 30.08.2023 appended at Exhibit-C, page No.199 to the Application. This order was passed in the previous Bail Application of Applicant when said Bail Application was allowed to be withdrawn with liberty to apply after three months thereafter. Considering the aforesaid reason of long incarceration pending trial and no possibility of trial

being commenced and completed in the near foreseeable future, on *prima facie* consideration of long incarceration of 5 years 6 months 3 days, Applicant is directed to be released on bail subject to following conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (v) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the

prosecution to apply for cancellation of this order;

(vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

7. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

8. Bail Application No.1710 of 2024 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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