

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 4637 OF 2024**

Shubham Sanjay Modak

... Applicant

Versus

State of Maharashtra

... Respondent

.....

Ms. Sana Raees Khan a/w. Ms. Juhi Kadu, Advocates for the Applicant.
Smt. Sangeeta D. Shinde, APP for the State.

CORAM : SHIVKUMAR DIGE, J.**DATED : 10th FEBRUARY, 2025.****P.C. :**

1. By this application, the applicant is seeking regular bail in C.R.No. 1635 of 2020 registered with Hadapsar Police Station, Pune for the offence punishable under Sections 143, 147, 148, 149, 302 of Indian Penal Code and under Section 4(25) of Arms Act and under Section 37(1) (3) of the Bombay Police Act.

2. It is prosecution's case that on 21.11.2020, friend of first informant Aniket was in the need of money. They both had asked their friends to give money but no one gave them money. Thereafter, Aniket received a call from the applicant, who asked him to come to the incident spot stating that he would give him money. Aniket, first informant and other friends went to the spot as told by the applicant. When they reached

at spot applicant came there. He took Aniket with him towards wall of temple, suddenly co-accused came there. The applicant pushed Aniket, due to that push Aniket fell on ground, at that time co-accused assaulted Aniket with sickle and wooden bamboo. The applicant assaulted Aniket with fist and blows. When first informant and his friends tried to save Aniket at that time, applicant told first informant and his friends that they should go. In the said assault Aniket died.

3. It is contention of learned counsel for the applicant that three co-accused have been released on bail. The role attributed to the applicant that he assaulted the Aniket with fist and blows. The trial has started. The evidence of the eye witnesses have been recorded, they have turned hostile. Learned counsel further submitted that the applicant is behind bar more than 4½ years and he has no antecedents, hence requested to allow the application.

4. It is contention of learned APP that applicant had called first informant and deceased at the incident spot, thereafter he had taken away the deceased and pushed him on the ground. Thereafter, co-accused assaulted the deceased. It shows active involvement of the applicant in the crime. The trial is in progress. If applicant is released on bail, he may threaten the prosecution witnesses, hence requested to reject the application.

5. I have heard both the learned counsel. Perused charge-sheet. The statement of two eye witnesses have recorded before the Trial Court. They have turned hostile. The applicant is behind bar more than 4 years and 6 months. The allegations against the applicant are that he pushed the deceased on the ground and assaulted the deceased with fist and blows. Considering these facts as well as as applicant is behind bar for 4 years and 6 months and evidence of the eye witnesses have been recorded, it may take time to conclude the trial and I pass following order :

ORDER

- i. The applicant be enlarged on bail in C.R.No. 1635 of 2020 registered with Hadapsar Police Station, Pune, on executing P.R.Bond of Rs. 50,000/- on furnishing one or two sureties of the like amount.
- ii. The applicant shall attend the concerned police station once in a month i.e. on first Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.
- iii. The applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- iv. The applicant shall not tamper with the evidence or

attempt to influence or contact the complainant, witnesses or any person concerned with the case.

- v. The Applicant shall not contact the victim and prosecution witnesses.
- vi. The Trial Court shall not be influenced by the observations made in this order and shall decide the matter on its own merits and in accordance with law.
- vii. The applicant shall attend the court dates regularly.

6. The Bail Application is allowed in the aforesaid terms and is accordingly disposed of.

7. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

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by SONALI
SATISH KILAJE
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