

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 114 OF 2015

Saharwardi Khan s/o Badshaha Khan,
Age : 34 years, Occu. Business,
R/o at present Vapi, Tq. Pardi,
District Valsad (State Gujrat)

APPLICANT

VERSUS

The State of Maharashtra,
through Police Station,
Waluj MIDC, Aurangabad

RESPONDENT

Mr. Joydeep Chatterji, Advocate holding for Mr. Shaikh
Kayyum Najir, Advocate for the applicant
Mr. S.M. Jadhav, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 22/01/2015

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who is arrested by Waluj M.I.D.C. Police Station, District Aurangabad in Crime No. I-127/2014, registered for the offences punishable under section 302 and 201 read with section 34 of the I.P. Code, is praying for his release on bail.

3. The case is based on circumstantial evidence. On 5th June, 2012, one dead-body was found near a road. The present applicant appears to have earlier filed a missing report regarding Shaikh Kalim whose dead-body was ultimately identified as that of the unknown person. During investigation, the wife of the deceased had apparently made a statement that as and when she made enquiry with the present applicant, he used to laugh and used to give irresponsible replies. The present applicant was the owner of the truck on which the deceased was employed as truck-driver. In her last of the statement, she appears to have made a statement that the present applicant had an evil eye against her. The statement of the Corporator from the area where the deceased was residing i.e. at Wapi, Taluka Pardi, District Balsad (Gujrat), would show that in fact, the wife of the deceased had illicit relations with one Sohail, said to be the absconding accused. Said Sohail appears to be the friend of the deceased. Further, the statement of the son of the deceased would show that said Sohail used to visit the house of the deceased and his wife on some occasions. On the basis of the statement of the wife of the deceased, regarding his

conduct after the death of the deceased, he is arrayed as accused. Said Sohail is absconding.

4. The applicant was arrested on 23rd June, 2014. His earlier application for his release on bail, being Criminal Application No. 3862/2014, when the investigation was continued, was allowed to be withdrawn by this Court vide order dated 30th July, 2014, with liberty to file fresh application before the Sessions Court after the investigation is completed. After filing of the chargesheet, next of the application was filed by the present applicant in the Sessions Court. The same was rejected by the learned Sessions Judge. Therefore, the present application.

5. Considering the overall facts, as detailed supra, and finding that the case is based on circumstantial evidence and the readiness of the present applicant that he is even ready to reside in Aurangabad till the trial is concluded and that he is ready to furnish local surety and further finding that the trial may take its own time, upon hearing both sides, in my view, the applicant can be released on certain

conditions. Hence, the following order:-

6. The applicant be released on bail in Crime No. I-127/2014, registered with Waluj M.I.D.C. Police Station, District Aurangabad, for the offences punishable under section 302 and 201 read with section 34 of the I.P. Code, on his executing P.R. Bond in the amount of Rs. 50,000/- (rupees fifty thousand) and also upon furnishing two local sureties in the sum of Rs. 25,000/- (Rupees twenty five thousand) each.

. The applicant shall reside within the territorial limits of city of Aurangabad.

. The learned Sessions Judge is requested to take efforts for completion of the trial within a period of one year, if necessary by separating the trial without waiting for the arrest of the co-accused Sohail. The applicant undertakes to cooperate for early conclusion of the trial from his side.

. In case the trial is not concluded within a period of one year, the applicant would be at liberty to apply before this Court for relaxation of the condition regarding his residence within the territorial limits of city of Aurangabad.

. The present application accordingly stands disposed of.

[M.T. JOSHI]
JUDGE

npj/criapln114-2015