

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2294 OF 2014

Vakil Ahmad Ansari
V/s.
The State of Maharashtra

.....Applicant

....Respondent

Mr. Satyavrat Joshi for Applicant
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : JANUARY 28, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 27/05/2014 in crime no. 169 of 2014 registered at Chaturshrungi Police Station, Pune for offence punishable under section 302 r/w 34 of Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that on 27/05/2014, one Vijay Kare informed the police that he had been informed by Yusuf Noorkhan Pathan that Kashim Hamid Shaikh aged about 28 years was sleeping in his house, however, in spite of best efforts, he did not wake up. Police reached the said spot and had taken Kashim Shaikh to the District Hospital, Aundh. He was declared dead. On the basis of said report, A.D. No. 75 of 2014 was registered

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and the investigation was set in motion. The body was sent for post mortem. The cause of death was 'Asphyxia due to strangulation'.

3) In the course of investigation, it was revealed that the wife of deceased, allegedly had illicit relations with the present applicant. Deceased was an impediment in the said relationship.

4) In the course of investigation, investigating officer has recorded the statement of one Nabab Pathan on 28/05/2014. He has disclosed that on 26/05/2014, after dinner, he had asked Madina i.e. wife of deceased about the whereabouts of Kashim and she had disclosed that he is out of station. In the intervening night of 26/05/2014 & 27/05/2014 at about 3.30 am to 3.45 am, said person i.e. Navab Pathan had woke up to answer the nature's call. At that time, he saw present applicant hurriedly leaving the house of the deceased and that he was followed by the wife of the deceased. It appears from the records that on 17/07/2013, the statement of deceased was recorded. He had disclosed that he had received an anonymous letter informing him about the relationship of his wife with present applicant. He had therefore, complained to the police about the same. It is specifically stated that since the day he lodged the complaint, he had not received any anonymous letter. He had also

received SMS from a particular cellphone number. On 17/07/2013, said cellphone was reported to be switched off. In view of this, he had requested the police to close the file.

5) Papers of investigation further reveal that finger prints of present applicant were found in the house of the deceased on a steel glass. Learned counsel for the applicant submits that applicant was residing in the said locality and used to visit the house of the deceased quite often and therefore, it cannot be considered to be incriminating circumstance.

6) There is a circumstantial evidence to connect the applicant with the alleged offence. Hence, he does not deserve bail. The Sessions Court shall not be influenced by the observations made herein above.

ORDER

(i) Application, being sans merits, is rejected.

(SMT. SADHANA S. JADHAV, J.)