

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 2358 OF 2015

Abdul Karim Mukhtar Ahmed @ Natava	.. Applicant
v/s.	
The State of Maharashtra	.. Respondent

Smt. Sulbha A. Dhamale for the Applicant.
Mr. Rajesh More APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 14th DECEMBER, 2015.**

P.C.

1. This is an application, for bail filed by the aforesaid applicant, who is arrested in Crime No. 85 of 2012 registered at Azadnagar Police Station, Malegaon, Dist. Nashik, for offences punishable under sections 143, 147, 148, 149, 302 r/w 34 of the Indian Penal Code.

2. The case of the prosecution in brief is that on 13/07/2014 at about 12.30 a.m., the applicant and other co-accused formed an unlawful assembly, armed with deadly weapons and committed murder of Siraj Ahmed Hafijullha.

3. The said crime was registered, pursuant to the FIR lodged by Faridabano Siraj Ahmed, and widow of deceased Siraj Ahmed Hafijullha. The applicant was arrested on 19th July, 2014. The charge-sheet had been filed bearing No.577 of 2014 before the JMFC, Malegaon and the case is committed to the Court of Sessions, Malegaon & is registered as S.C.No. 116 of 2014.

4. The bail application filed before the Sessions Court, Malegaon, has been rejected by order dated 07/08/2015. The applicant has, therefore, filed this application for bail, invoking the powers of this Court under section 439 of the Criminal Procedure Code.

5. Smt. Sulbha A. Dhamale, the learned counsel for the applicant submits that there is no prima facie material to show the involvement of the applicant in the said crime. She

submitted that the co-accused have been released on bail and one of the accused has been released under section 169 of the Criminal Procedure Code.

6. The learned APP for the State submits that the statements of the witnesses prima facie prove that the applicant was present at the place of the incident, and that he was armed with sword and deadly weapons and was involved in commission of the said crime.

7. I have perused the record and considered the submission advanced by the learned counsel for the applicant and the learned APP for the State.

8. The FIR prima facie reveals that on 13/07/2015 at about 10.00 p.m., Siraj Ahmed Hafijullha, the husband of the complainant had left the house. Subsequently on 14/07/2014 at about 1.00 a.m. one of the witnesses had informed her that

Panga Dada (A-1), his brother and other 10 to 12 persons had assaulted Siraj Ahmed Hafijullha by sword and other sharp deadly weapons and that he was in an injured condition. The said Siraj Ahmed Hafijullha was taken to the hospital and he was declared dead. The post-mortem report reveals that he had sustained injuries on vital parts of the body. The Doctor had opined that the death was due to blood loss, as a result of stab injury to left lung.

9. The statement of the eye-witness namely Noor Mohamed Shaikh Hussain reveals that the applicant herein was present along with main accused Panga Dada and that the applicant along with Panga Dada and the said persons, accused No.1 and others had assaulted him. The statement further reveals that the deceased had tried to escape and that the applicant herein, had entered, the Caram Club and that main accused Panga Dada and others including the applicant herein had followed him. All these persons, including the

applicant, had opened the door of Caram Club, and pulled said Siraj Ahmed Hafijullha out of the Caram Club and assaulted him with sword, knife and other sharp weapons. The statement of Shaikh Fatima also prima facie reveals that the applicant along with Panga Dada and other co-accused had followed Siraj Ahmed Hafijullha to the Caram Club and broke open the door, pulled him out and assaulted him with knives, swords, etc. The material on record, thus prima facie proves the involvement of the applicant in commission of the said crime. The offence is serious in nature and the gravity of the offence itself is a ground for rejecting the application.

10. The trial has not yet commenced and the eye-witnesses are not yet examined. Considering this fact, the release of the applicant on bail at this stage can hamper the trial.

11. Under the circumstances, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)