

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

**CRIMINAL APPLICATION NO. 120 OF 2016
IN
CRIMINAL APPEAL NO. 860 OF 2015**

Mohammad Parvez Mohammad
Anwarul Haq. ..Applicant

v/s.

The State of Maharashtra. ..Respondent

Mr. Anil Lalla a/w. Ms. Monika Malkai i/b. Lalla & Lalla for the
Applicant.

Mr.H.J.Dedhia, APP for the Respondent/State.

**CORAM : SMT. V.K.TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : MARCH 21, 2016.**

P.C. (Per Anuja Prabhudessai, J.).

1. The applicant, the original accused no.1 is convicted for offences under Section 302 and 201 of IPC, and has been sentenced to undergo imprisonment for life offence under Section 302 IPC and to suffer imprisonment for five years for offence under Section 201 IPC. The trial court has also awarded fine on both counts and it is

directed that both the sentences shall run concurrently.

2. The applicant has challenged the said conviction and sentence, and during pendency of the appeal, the applicant has sought suspension of his sentence and enlargement on bail, as contemplated under Section 389 of Cr.P.C.

3. Heard Mr. Lalla, the learned Counsel for the applicant and Mr. Dedhia, the learned APP for the State.

4. The records reveal that on 15.3.2011 a green colour trolley bag was found lying on platform 1-2 of Sandhurst Road Railway Station. The said bag contained body of a lady. PW12 Fahmida had identified the said body as that of her neighbor Rehmat.

5. The evidence on record reveals that the applicant was married to said Rehmat on 12.1.2010 and that they were residing in a room in Prakash Complex, Santosh Nagar, Mumbra. The evidence on record reveals that during the subsistence of the first marriage the

applicant had performed second marriage with PW9 Arshiya and that they were residing in Roshni Apartment. The evidence of PW9 Arshiya also reveals that the applicant had not told her about his previous marriage to Rehmat. Similarly, the applicant had also not told Rehmat about his second marriage and that he had told her that he would be shifting to Delhi. Accordingly, the applicant had sent Rehmat to Delhi along with the co-accused, while he continued to be in Mumbra from 14.2.2011 till 9.3.2011. The testimony of PW9 reveals that the applicant had proceeded to Delhi on 10.3.2011 and returned to Mumbai on 14.3.2011 along with Rehmat. The mobile tower location of the applicant prima facie reveals that the applicant was at Mumbra on 14.3.2011.

6. The CCTV footage vis-a-vis the evidence of PW33 Pritam Shinde, Investigating Officer, PW37 Mr. Jadhav, PW39 Subhash as well as PW12 Fahmida prima facie reveals that the deceased was last seen alive in the company of the applicant on 14.3.2011 at about 5.16 hours, while the body was found in a bag on 15.3.2011. The evidence on record also prima facie proves that the bag in which the

body of the deceased was found was one of the gift articles given to PW9 Arshiya by her parents. The CCTV footage also prima facie reveals that the applicant and the co-accused were seen with the said travel bag at Mumbra Railway Station on 14.3.2011 at 21.58 hours. The CDR record also shows that the applicant and the co-accused were at Mumbra railway station on 14.3.2011 at about 21.50 hours. The records also prima reveal that the dupatta which was used for strangulating said Rehmat was recovered at the instance of the co-accused in Roshni Apartment, which was in possession of the applicant.

7. The above circumstances prima facie reveal the involvement of the applicant in the aforestated crime. Furthermore, the conduct of the applicant in not lodging any missing report is also one of the circumstance which links the applicant with the crime. In th light of the above facts and circumstances, we are not inclined to enlarge the applicant on bail. Hence, the application is rejected.

(ANUJA PRABHUDESSAI, J.)

(SMT. V.K.TAHILRAMANI, J.)