

*Ladda*FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2048 OF 2015

Mubarak Shabbir Ahmed Shaikh Vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms Anjali Patil for the applicant.

Ms S.S.Kaushik, APP for the State.

Mr P.I.Shinde, Dadar Railway Police Station, present.

CORAM : A.S.GADKARI, J.

DATE : 07th January, 2016

P.C.

1) The applicant is seeking bail in CR No. 247/2014, dated 14/12/2014 registered with Dadar Railway Police Station under section 302 and 201 of IPC. As per the First Information Report (FIR) dated 14.12.2014 lodged by Shri Shankar Jyotiram Dhane, a Police Officer attached to Dadar Railway Police Station stating that on 14.12.2014 at about 5:30 a.m. he received the information that an unknown person is lying on the railway track. He, therefore, went to the spot i.e. the railway track between mark No.11/5 and 11/6 and noticed that a person was lying at the said spot in unconscious condition. The said person was thereafter taken to Sion Hospital for medical treatment. The police found a driving licence on the person of the said injured and revealed the name of the said person as Mahendra Rajput. The said complainant thereafter lodged the FIR on behalf of the State. During the course of investigation, it is revealed that the applicant and other two accused persons namely Abu Bakar Mustafa Ali Shaikh and Mubarak Shaikh have committed the

murder of said deceased Mahendra Rajput. The motive behind the said crime was that the accused persons with a view to rob the ornaments and cash which were on the person of deceased committed his murder. After completion of the investigation, charge-sheet is filed.

2) Heard the learned counsel for the applicant and the learned APP for the State.

3) The only circumstance against the present applicant is which can be discerned from the entire charge-sheet is, at the instance of the applicant, there is discovery of two pieces of nylon ropes by effecting two different discovery panchnama dated 13/1/2015 and 17/1/2015 respectively. It has to be noted here that the date of incident is 14.12.2014, the Investigating Agency conducted the spot panchnama on the same day i.e. on 14.12.2014. The applicant was arrested on 7.1.2015 and when the applicant was in police custody, expressed his willingness to discover nylon rope by which the deceased was strangulated. The applicant, thereafter, took the police to a place which was about hundred meters away from the spot of the incident i.e. where the dead body was found and the nylon rope admeasuring 2'.10" was discovered from a open space. It has further to be noted that from the same spot on 17.1.2015 another piece of nylon rope ad-measuring 4".5' was discovered from the open space. The learned APP submitted that two ends of said nylon rope tally, the report to that extent has been given by the Chemical Analyser. The learned APP submitted that the impression of ligature mark which was found on the neck of the deceased also tallies with the said nylon rope discovered at the instance of the applicant. However, as stated above, the two separate pieces of nylon ropes were discovered at the instance of the applicant from the vicinity of the same spot by effecting two different panchnamas dated 13.1.2015 and 17.1.2015, prima facie, I am of the opinion that the applicant has made out a case for grant of bail.

Hence, the following order :

ORDER:-

- (a) The applicant shall be released on bail in CR No. 247 of 2014 registered with Dadar Railway Police station, Mumbai on his executing P.R. bond of Rs.25,000/- with one or two solvent sureties in the like amount;
- (b) After release from jail, the applicant shall attend the Dadar Railway Police station on every first Monday of the month between 10:00 a.m. to 12:00 noon. The applicant shall attend each and every date before the trial Court;
- (c) The applicant shall not tamper and/or influence the witnesses;
- (d) It is needless to mention that the observations made herein above are in the context with and for the decision of the present application. The trial Court shall not get influenced by the same at the time of conducting trial;

The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)