

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.802 OF 2017

Pappu Safdar Kaisar Abbas Ansari ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

.....

Mr.Hemant P. Sapkale, Advocate for the Applicant.

Ms.Veera Shinde, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 9th NOVEMBER 2017.

P.C. :

1 The applicant/accused in Crime No.I-21 of 2016 for the offence punishable under Sections 320, 120-B of the Indian Penal Code, registered with Bhoiwada Police Station, by this application, is seeking his release on bail during pendency of the trial.

2 Heard the learned Advocate appearing for the applicant/accused, who argued that there is no evidence to connect the applicant with the crime in question. The CCTV footage is not showing presence of the applicant. The learned Additional Public Prosecutor accepted the fact that the CCTV footage does not show the present applicant, but she argued that the applicant was having strong motive to kill Jamil Ahmad Kasimali Ansari with whose wife he was having illicit relations.

3 I have carefully considered the rival submissions and also perused the entire charge-sheet.

4 The crime in question is registered on the basis of report lodged by PSI Shri.Ganpat Babu Ganeshkar on 27/01/2016. He received information that one unknown person is lying in an injured condition behind Manali Dhaba and power-loom Karkhana. When that person was taken to IGM Hospital, he was declared dead. That is how, the crime in question is came to be registered. It is case of the prosecution that the present applicant was having illicit relations with Khurshida, who is wife of deceased Jamil Ahmad Kasimali Ansari. The dead body of unknown person came to be identified as the dead body of said Jamil Ahmad Kasimali Ansari. According to the prosecution case, when deceased Jamil came to know about illicit relations of his wife with the present applicant, the deceased had been to the house of the present applicant and abused parents of the present applicant. This infuriated the present applicant to hatch the conspiracy and to eliminate Jamil. According to the prosecution case, the applicant hired services of accused No.2 Arif Jamil Shaikh and wanted accused Abdul Hakim Abdul Ajij Ansari. He paid Rs.20,000/- to them and got the deceased Jamil Ansari killed by them.

5 During the course of investigation, the prosecution has recorded statement of Khurshida. Her statement reveals that her husband was taken from the house by a person, who was frequent in visiting her house. Statement of Khurshida shows that in the CCTV footage, three persons were seen out of which one is her husband Jamil. Statement of Khurshida does not show that the present applicant was in company of deceased Jamil at the time of the incident. Apart from this, there is hardly any evidence regarding conspiracy.

6 Considering the nature of evidence against the present applicant, after completion of investigation, his further pre-trial detention is not warranted. It is seen that the applicant is desirable to be available for further trial, if he is released on bail. Therefore, the Order :

- (i) The application is allowed.
- (ii) The applicant/accused in Crime No. I-21 of 2016 for the offence punishable under Sections 320, 120-B of the Indian Penal Code registered with Bhoiwada Police Station is directed to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

- (iv) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

(A.M.BADAR J.)