

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 346 OF 2017**

Mukid Ahmed Mohd. Jaled Ansari	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Meghashyam Kanoji Kocharekar for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

API Mr. R. S. Maske from Shanti Nagar Police Station, Bhiwandi, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 2nd AUGUST, 2017

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-19 of 2003 registered with the Shanti Nagar Police Station, Bhiwandi, for the alleged offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that there is absolutely no material to connect the applicant with the alleged offence.

He submits that although it is alleged that the applicant was absconding, the said fact, is not borne out by the material on record. He submits that infact, no proclamation was also issued. He submits that the applicant was very much in Bhiwandi, however, was not arrested. He submits that original accused No.1-Shahnawazbano has been acquitted after a full-fledged trial.

4. Learned A.P.P is unable to point out any material to connect the applicant with the alleged offence. She submits that there is an extra-judicial confession made by co-accused-Shahnawazbano to her husband. Apart from the said material, she is unable to point out any other material. Admittedly, no proclamation was issued, nor was the applicant declared as a proclaimed offender.

5. Perused the papers. The incident has taken place on 28th January, 2003. The FIR was lodged by Gulab Waghe as against two unknown persons. According to the prosecution, the applicant and the original accused No. 1-Shahnawazbano was seen in a compromising position by the deceased, pursuant to which, he was murdered. According to the prosecution, Shahnawazbano had disclosed the same to her husband.

Admittedly, Shahnawazbano has been acquitted of the said offence after a full-fledged trial. There is nothing on record to show that the applicant was absconding. Except the said extra-judicial confession made by Shahnawazbano to her husband, *prima facie*, there is no other material to connect the applicant with the alleged offence.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first and third Saturday of every month between 10:00 a.m. to 11:00 a.m., initially for a period of one year from the date of his release and thereafter, on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall not leave the jurisdiction of Maharashtra, till the conclusion of the trial;

(v) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial

(vii) The applicant shall file an undertaking in the trial Court with regard to clauses (ii) to (vi), within two weeks of his release;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The application is accordingly disposed of.
8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.