

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

CRIMINAL BAIL APPLICATION NO. 607 OF 2017

Mr. Ansar Ahmad Mohamad Shabir Ansari ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Gladys Pereira for the applicant.

Mr. R. M. Pethe, APP for the respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 12 JUNE 2017

P.C. :

1. This is an application for bail in connection with C.R. No.I-198 of 2017 registered with Bhiwandi Taluka Police Station, Bhiwandi, Thane for the offence punishable under section 302 of IPC. The applicant was arrested on 11 September, 2016 and since then he is in custody.

2. The case of the prosecution is that the applicant and other accused had visited the house of the complainant and informed her that her husband (deceased) has committed theft in the locality and therefore he has been assaulted. It is further case of the prosecution that the

accused persons had mercilessly assaulted the deceased for allegedly committing the theft. On account of the assault the deceased died.

3. Learned advocate for the applicant submits that though the name of the applicant is reflected in the FIR as a person who had visited the house of the complainant, the eye witnesses to the incident have not referred to the presence of the applicant at the scene of offence. It is further submitted that there is no evidence of any witness attributing any overt act to the applicant or establishing his participation in the crime. It is further submitted that there is no recovery or any other evidence to corroborate the involvement of the applicant.

4. Learned APP submitted that the applicant's involvement is evident in the FIR wherein the complainant has stated that the applicant is one of the person amongst others who had visited her house and stated that her husband is being assaulted by them.

5. I have perused the documents on record and the statements of the eye witnesses. There is no evidence to show that the applicant was one of the person who had assaulted the deceased. There is no other

evidence to involve the applicant in the said crime except the statement of the complainant. It is pertinent to note that the complainant is not eye witness to the incident and she had merely stated that the accused had disclosed to her that all of them had assaulted the deceased. The eye witnesses to the incident of assault including the person in whose house theft was committed and caught hold of accused has not referred to presence of applicant at the time of assault. The applicant is in custody since 11 September, 2016. the investigation is complete and the chargesheet is filed. Learned advocate for the applicant submits that there is no criminal antecedents against him.

6. Taking into consideration aforesaid aspect, I am inclined to grant protection to the applicant.

7. Hence, I pass the following order;

:: ORDER ::

- (i) The applicant may be released on bail in connection with C.R. No.I-198 of 2017 registered with Bhiwandi Taluka

Police Station, Bhiwandi, Thane on executing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(ii) The applicant should report Bhiwandi Taluka Police Station, Bhiwandi, Thane once in a week on every Saturday between 10.00 to 12 pm till further orders.

(iii) Application stands disposed of.

[PRAKASH D. NAIK, J.]