

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 669 of 2017**

Mustak Alias Munna Munif Nabi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. J. S. Hegde for the applicant.

Smt. J. S. Lohokare, APP for the respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 23 JUNE 2017

P.C. :

1. This is an application for bail in connection with C.R. No.I-141 of 2016 registered with Thane Nagar Police Station, Thane for the offences punishable under Sections 302, 342 read with 34 of IPC. The FIR was lodged on 21 August, 2016. The applicant was arrested on the same date.

2. It is the prosecution case that on 21 August 2016 between 4.30 pm to 8.00 am the accused had assaulted the deceased Ashok Dhonde on account of the fact that he had committed theft of mobile phones of co-workers. During the course of investigation, the statement of Aslam Khan was recorded on 21 August, 2016. In the said statement, he has stated that he is working in the hotel

alongwith the co-accused. The mobile phones belonging to the co-workers were missing. Deceased Ashok was not found in the room where they were sleeping and they suspected that he had committed the theft of the said mobile phones. It is further stated that the hotel owner Sachin Sheregar, co-accused Tapan and Munna brought Ashok to the hotel. The applicant was informed that the mobile phones were recovered from Ashok. Ashok was found at Thane Railway Station. It was noticed that Ashok had sustained abrasion on his hands and he was made sit on the bench in the hotel and thereafter he was taken to the hospital. The supplementary statement of the said witness was recorded on 22 August, 2016. In the said supplementary statement, however, he has changed his version and stated that the applicant and the co-accused viz. Sachin, Tapan and Munna had closed the shutter of the hotel and Ashok was assaulted by stick, iron and rubber pipe. The said allegations were not found in the previous statement. The investigating officer had also recorded the statement of Sumitra Jaiswal who is residing in the adjacent area. Her statement was recorded on 23 August, 2016. In the said statement, it is stated that she had seen Sachin and two other persons assaulting the deceased. She further stated that Sachin had informed her that he alongwith the applicant and the co-accused had assaulted

the deceased. However, she had not referred the name of the applicant as assailant in the initial part of her statement and only on the basis of information given to her by the co-accused she had referred to the name of the applicant. Obviously she was not knowing the applicant and no identification parade was conducted to identify the applicant as one of the assailant.

3. Learned advocate for the applicant submitted that the applicant has been falsely implicated and there is no evidence to connect him with the crime. The witness had attributed overt act to the applicant by improvising his version. He further submitted that co-accused Sachin Sheregar also referred to in the supplementary statement by Aslam Khan has been granted bail by this Court. He further pointed that in the postmortem report it is stated that cause of death is shock due to ploy-trauma with alcoholic intoxication.

4. I have perused the FIR and other statements of the witnesses. The applicant has been implicated on the basis of the supplementary statement of Aslam who had improvised his version. In any case, the cause of the death as shows in the postmortem report is that shock due to ploy-trauma with alcoholic intoxication. The applicant is in custody since August, 2016. The investigation is complete and

chargesheet has been filed. The co-accused Sachin Sheregar has been granted bail by this Court, hence the applicant is entitled for bail.

5. Hence, I pass the following order;

:: ORDER ::

- (i) The applicant is directed to be released on bail in connection with C.R. No.I-141 of 2016 registered with Thane Nagar Police Station, Thane on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only.) with one or more surety in the like amount.
- (ii) The applicant is directed to attend Thane Nagar Police Station, Thane on every first Monday of every month between 11.00 am to 2.00 pm.
- (iii) The applicant shall attend all the dates before the Trial Court.
- (iv) The applicant shall not tamper with the evidence and /or influence the prosecution witnesses.
- (v) The applicant should furnish his permanent address to the investigating officer.
- (vi) The application stands disposed of.

[PRAKASH D. NAIK, J.]