

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 503 OF 2017

Mohammed Rafiq Abdul Jabbar Shaikh

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Bhaskar Sarwade Advocate for the Applicant.

Ms. Veera Shinde APP for the State.

Mr. Shinde, PSI, Trombay Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 22nd MARCH, 2017.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 6 of 2017 registered at Trombay Police Station on 13/01/2017 for offence punishable under sections 304 (II) of the Indian Penal Code.

2) It is the case of the prosecution that on 11/08/2014, one Mohammad Imran Abubakar Khan had died an accidental death while he was fixing drainage pipe. It was apparent that he had sustained an electric shock. A.D.

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No. 69 of 2014 was registered. In the course of inquiry, Investigating Officer had recorded the statement of Mohammad Jasim Shaikh on 16/07/2014 wherein he had informed to the police that present applicant is providing unauthorised electricity to the residents of the said area and he had been paid Rs. 600/- per month. He had given details of the identity of the present applicant.

3) It is a sorry State of affairs that since 16/07/2014, police had not taken any action against the applicant. No notice was issued to him for the purpose of inquiry or under section 41 (A) of Code of Criminal Procedure, 1973 and the F.I.R. is lodged only on 13/01/2017.

4) The learned counsel for the applicant submits that applicant has been falsely implicated. Incident is of the year 2014 and custodial interrogation in 2017 would not be imperative.

5) The learned APP upon instructions that earlier, investigation was entrusted with PSI Kirti Mane. That there was no investigation except

recording the statements which in fact implicated present applicant. No action was taken. On 20/07/2016, Mrs. Mane was transferred to Cyber Police Station, Mumbai and thereafter, present investigating officer Shri. Yogesh Bhosale has lodged F.I.R.

6) It is true that there is a delay of more than 3 years in lodging F.I.R. the involvement of the applicant was apparent way back in 2014, however, as on today, after 3 years, custodial interrogation of the applicant may not be imperative. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more local solvent sureties in the like amount.
- (iii) Applicant shall report to the concerned police station 25/03/2017 to

31/03/2017 everyday between 10.30 a.m. to 01.00 p.m. and co-operate with the investigating agency.

(iv) Upon failure to attend any two consecutive dates, prosecution would be at liberty to file an application recalling this order.

(v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)