

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 810 OF 2017**

Abdul Salam Shahaalam Sayyad	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Keshav S. Chavan for the Applicant

Ms. J. S. Lohakare, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 15th SEPTEMBER, 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. 246 of 2016, registered with the Kherwadi Police Station, Mumbai, for the alleged offences punishable under Sections 302, 328, 120(B) of the Indian Penal Code.
3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the said case. He submits that it is alleged by the prosecution, that the applicant administered Sayrabano (deceased), a

tablet, as a result of which, the deceased succumbed to the same. He submitted that however, the Chemical Analyser's report is negative. He relied on page 102 of the application i.e. the Chemical Analyser's report.

4. Learned A.P.P does not dispute the fact, that the Chemical Analyser's report is negative. She submits that the cause of death is stated as, "Intrapulmonary Haemorrhage with Pulmonary Oedema associated with Acute Tubular Necrosis".

5. Perused the papers. The complainant-Sharif Shaikh is the brother of the deceased. The prosecution case rests on circumstantial evidence. The applicant is the husband of the deceased-Sayrabano. It is alleged by the complainant, that his sister-Sayrabano was not able to conceive, and hence, the applicant was unhappy and would state that he would marry again. On 4th August, 2015, the complainant learnt that his sister was admitted to the hospital. When he went to the hospital, he was informed that Sayrabano had expired. He has stated that it was informed to him by Rehanabi that Sayrabano had a toothache and had taken a medicine and that she may have taken a wrong medicine, as a result of which, she

expired. The complainant has further alleged that after his sister-Sayrabano was declared dead, the applicant stated that he wanted to go home, as he had fever and wanted to take medicine. The complainant's nephew-Raees accompanied the applicant. According to the complainant, his nephew-Raees informed him, that the applicant had picked up one bottle from home, put in his pocket, and had thrown the said bottle in the garbage. He has stated that when Raees asked him what he had thrown, the applicant disclosed that it was a bottle containing gas tablets. Pursuant thereto, Raees pulled out the bottle, however, the applicant pulled the said bottle from Raees and again threw the same in the gutter. According to the complainant, Raees pulled out the said bottle and handed it over to the police. On the said bottle, it was stated as, "not for medical use, poisonous". According to the prosecution, the said container contained Parad tablets and that the deceased died due to consumption of the said tablets. It is pertinent to note, that the Chemical Analyser's report shows, that no poison was found in the Viscera or in the blood of the deceased. The cause of death was stated to be, 'Intrapulmonary Haemorrhage with Pulmonary Oedema associated with Acute Tubular Necrosis'. Investigation is complete and charge-sheet is filed.

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. 30,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station 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 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;
- (v) The applicant to cooperate with the conduct of the trial.

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.