

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1611 OF 2015

Naushad Liyakat Khan	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi, Advocate for the applicant.

Ms. P.P. Shinde, APP, for the State.

Mr. B.M. Salunke, PSI, Manpada Police Station, Dombivli, present.

CORAM: SMT. SADHANA S. JADHAV, J.

DATE : 6th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 9.1.2014 in Crime No.203 of 2012 registered at Manpada Police Station, Dombivli, Dist. Thane on 25.7.2012. The investigation is completed and charge sheet is filed in March 2014.

2. It is the case of the prosecution that on 25.7.2012, Lalmohan Subhashchandra Mayati lodged a report at the police station alleging therein that he was residing at Lodha Heaven, Motiram Emporium, Nilje along with his wife. On 25.7.2012, he had called up his wife in the afternoon at about 1 p.m. There was no reply. he returned home in the evening at 7.30 p.m. He had found his wife nude. It appears that she was strangulated with her own clothes. He checked the house and found that his Laptop and camera were missing and the cash amount of Rs.13,500/- was also missing. Hence, he lodged a report against unknown persons for having caused

homicidal death of his wife. In the course of investigation, the investigating agency had recorded statements of several witnesses. It was revealed that the present applicant who happens to be a rickshaw driver was initially residing in closed proximity of the house of the deceased. It was further transpired that on 21.1.2014, the I.O. had recorded the statement of one Deepak Thakur who had disclosed that he happens to be a rickshaw driver and therefore acquainted with the present applicant. He had disclosed that sometime in February 2012, he had met the present applicant who had disclosed to him that he has intimate sexual relations with one Bengali woman. He had also introduced Deepak to the said persons and with deceased Sonali. He had identified Sonali on the basis of photograph shown to him.

3. The learned counsel for the applicant submits that there is discrepancy in the ID number of Laptop which is recovered from the applicant and the one which was shown to be stolen. The statement of Deepak Thakur is recorded under Section 164 of the Indian Evidence Act and he has stated that on 25.7.2012, he was in the company of the present applicant. That he had received a phone call from someone. He had disclosed to his other companions that he would finish the issue of money transaction. He had returned after some time. He was accompanied by co-

accused who seem to be disturbed. Upon enquiry by the witness, the applicant had disclosed that there was altercation between the said person and that they had assaulted each other. While returning from that house, he was carrying a bag with him. Thereafter, the applicant was never seen. The said witness had read the news item in the newspaper about the murder of Sonali in the same building where the applicant had gone to fetch money. The applicant was not seen by anybody for a very long time and he refused to acknowledge the witnesses.

4. Upon perusal of the compilation of charge sheet, it is clear that there is sufficient circumstantial evidence which would, prima facie, lead to a conclusion that the applicant is involved in the said case. Upon considering the material collected by the investigating agency, this Court is of the opinion that the applicant does not deserve to be enlarged on bail.

5. The learned APP has submitted that in the present case, charge has been framed. In view of this, it would not be necessary to issue further directions to the learned Sessions Judge. The observations herein are restricted to an application under Section 439 of Cr.P.C. and the learned Sessions Judge shall not be influenced by the same at the time of trial.

Application stands rejected.

(SMT. SADHANA S.JADHAV, J.)