

4- BA 279 of 2018

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION No. 279 OF 2018**

Ibrahim Gafoor Sayyad

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket U. Nikam i/b. Mr. Aashish Satpute for Applicant

Ms. Veera Shinde -APP

Mr. A.I. Shaikh, PSI Karad City Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 4, 2018

P.C.

1. Heard the learned counsel for the Applicant and the learned APP. Perused the papers of investigation.
2. This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 30th July, 2015 in Crime No. 272 of 2015, registered at Karad City Police Station for the offence punishable under Sections 302, 307, 120(B) read with 34 of the Indian Penal Code, under Section 3 and 25 of the Arms Act and under Section 3(1) (i) (ii), 3(2), 3(4) , 4 of Maharashtra Control of Organized Crime Act, 1999.
3. On 20th July, 2015, Smt. Anusaya Bhimrao Mane, the mother of Bablu

Mane lodged a report at the police station alleging therein that on 20th July, 2015 at about 8.30 a.m., her son Bablu was in the library for reading the newspaper. She had also followed him to open her shop Namrata Traders. When she was cleaning her shop, she heard a loud noise. She thought that it was a tyre burst. However, she had soon realized that her son Bablu has been shot. She had given the description of the person, whom she had seen. Bablu had succumbed to the injuries instantly.

4. The confessional statement of the co-accused would show that when the conspiracy was hatched, the Applicant was present in the house of Salim Shaikh.

5. The learned counsel for the Applicant submits that in fact, the Applicant herein is the brother-in-law of Salim Shaikh and, therefore, by virtue of the relationship he was in his house and was not concerned with the conspiracy.

6. It appears that the present Applicant was shown as Accused No.3 in Crime No. 83 of 2006 whereas Salim Shaikh was Accused No.1 for the offence punishable under Section 307 of the Indian Penal Code. The case registered as Crime No. 53 of 2006, vide judgment and order dated 31st October, 2012 all the accused are acquitted by the Additional Sessions Judge, Karad.

7. The learned counsel for the Applicant, upon instructions, submits that as

on today, Salim Shaikh has expired. He had been assaulted in the Karad Court premises. His legs were amputated and subsequently he succumbed to the injury and had expired. The learned counsel for the Applicant further submits that even if it is presumed that the Applicant is charge-sheeted with Salim Shaikh, as on today, Salim Shaikh is no more. It is also submitted that by virtue of doctrine of parity, the Applicant deserves to be enlarged on bail as Asif Salim Shaikh, who happens to be the son of Salim Shaikh, who had been to the house of Shakil to purchase revolver, has been enlarged on bail under the provisions of MCOC Act.

8. In view of this, and taking into consideration the papers of investigation and the submissions advanced across the bar, the Applicant deserves to be enlarged on bail. However, the observations made hereinabove are prima facie restricted to the application under Section 439 of Cr.P.C. and shall not be taken into consideration for discharge application or at the time of trial. Hence, the following order:

ORDER

- (i) Application is allowed.
- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- and one or more solvent sureties in the like amount.

- (iii) The Applicant shall not reside in Karad Taluka till conclusion of the trial.
- (iv) The Applicant shall give his new residential address, cell number and other details to the investigation agency within one week after his release on bail.

Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]