

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2513 OF 2017

Samidulla Akbarali Maniyar Applicant

Vs.

The State of Maharashtra Respondent

Mr. H.H. Ponda for the Applicant.

Mr. S.H. Yadav, APP for the State.

Mr. R.M. Bhoye, PSI, Nigdi Police Station, Pune City.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 5th January, 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 5th January 2017 in Crime No.19 of 2017, registered at Nigdi Police Station, for the offences punishable under Sections 302, 201 read with 34 Indian Penal Code. The investigation is completed and the charge-sheet is filed against the present applicant for the said offences on 3rd April, 2017.

3 It is the case of the prosecution that on 5th January, 2017, P.S.I., Raghunath Manglu Bhoje lodged a report at the police station that in the course of enquiry in Missing Register No. 218 of 2016, which was registered at the behest of Shivaji Manikrao Walekar, it was revealed that Shriram Shivaji Walekar had extended a hand-loan of Rs.5,00,000/- to the applicant and his son Mehboob Maniyar. That he was insisting upon them to return the amount. There was some dispute over the rate of interest and the amount of interest that was to be paid towards the hand-loan. It appears that the dispute was only over the amount of interest to be paid on the principal amount of Rs.5,00,000/-. It is alleged that on 27th September 2016, the applicant herein had allegedly called Shriram Walekar at their godown and in the course of altercation, Shriram Walekar was killed. On 27th September, 2016, Shivaji Walekar had suspected that his son was eliminated by the present applicant and his son. In the course of the investigation, the body of Shriram Walekar was discovered at the instance of the son of the applicant on 5th January 2017. The place from where the dead-body was discovered is a godown adjacent to the godown of the present applicant.

4 Learned counsel for the applicant submits that the memorandum of co-accused is not admissible in evidence and no implicit reliance can be placed on the same as the statement of the

co-accused is not recorded under Section 164 Cr.P.C.. It appears from the papers of investigation that besides the fact that the applicant happens to be the father of principal accused – Mehboob, there is no cogent material to substantiate the allegation that the applicant is either the author of the injuries or had played an active role in causing homicidal death of Shriram Wadekar. In view of the above mentioned fact, the applicant deserves to be enlarged on bail.

5 The observations are prima facie in nature and shall not be taken into consideration for the purpose of discharge application or at the time of trial and the learned Sessions Judge shall not be influenced by the above observations at the time of trial. Hence, the order :

ORDER

1 The application is allowed.

2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

3 The applicant shall not reside within the jurisdiction of Nigdi and Pimpri Chinchwad till the disposal of the trial.

(*Smt. Sadhana S. Jadhav, J*)