

Dond

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

BAIL APPLICATION NO. 2759 OF 2017

Taukir Allam Tajammul Hussain Shaikh

... Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. M.V. Kazi for Applicant.

Mr Ameet Palkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 5th FEBRUARY 2018.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No.I-581 of 2016 dated 18.11.2016 registered with Manpada Police Station, Dombivili, District-Thane under Sections 302 and 201 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP. Perused the chargesheet.

3] The deceased namely Mohd. Jahangir Alam Shaikh and the applicant were good friends. That the dead body of the deceased was found on 18.11.2016 at about 7.00 a.m behind Lakshmi Kurupa Hotel, near

Adarsh Vidyalaya, Nilje, Lodha Heaven, Dombivli (East). It is the prosecution case that, the applicant had received a contract for construction and therefore he demanded hand-loan and also labour from deceased Mr. Mohd. Shaikh to which deceased refused and therefore enraged by the same, the applicant committed murder of Mohd. Jahagir Alam Shaikh at the aforesaid place and with a view to cause disappearance of the evidence, stole his belongings and other articles namely diary, mobile phone etc which were on the person of the deceased and threw the mobile phone in the creek. The first information report is lodged by the Police Officer after receipt of information that a dead body of an unknown person is lying at the aforesaid place. The first information report is registered against an unknown person for committing murder of unknown person. During the course of investigation, the applicant came to be arrested on 16.5.2017 and after completion of investigation, the police have submitted chargesheet.

4] The record indicates that, there are two main circumstance which are propounded by the prosecution against the applicant i.e. (i) last seen together and (ii) extra judicial confession given by the applicant to two witnesses.

As noted earlier, the applicant came to be arrested on 16.5.2017 and the statements of the witnesses in the present crime have been recorded on 28.5.2017 and 31.5.2017 i.e after about twelve days of his arrest. The witness namely Mr. Mohammad Fazul Shaikh has stated that on 17.11.2016 from 7.30 p.m to about 9.00 p.m the applicant along with deceased were together and consumed beer upto to 9.00 p.m in a hotel at Navi Mumbai. That the dead body of the deceased was found by the police on 18.11.2016 at about 7.00 a.m at the aforesaid address at an isolated place and there is no other witness to state that the applicant was last in the company of the deceased in the said vicinity, either late in the night of 17.11.2017 or in early morning of 18.11.2016. In the statement, it is further stated that the applicant had given extra judicial confession to the said witness Mohammad Fazul Shaikh. The statement is recorded after a gap of about 14 days from the date of arrest of the applicant. The other witness namely Salima Mandal also has stated about the extra judicial confession given by the applicant in laate night of 17.11.2016 about the incident. It is the prosecution case that, the applicant had been to her house for shelter at her house after commission of offence. Her statement is also recorded by the police after the arrest of the applicant belatedly

5] In view of the above and after taking into consideration the role attributed to the applicant in the present crime, this Court is of the view that, the applicant can be released on bail.

Hence the following Order:

(i) The applicant be released on bail in CR No.I-581 of 2016 registered with Manpada Police Station, Dombivli on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from the jail, the applicant shall attend the concerned Police Station on every 1st Monday of the month between 10.00 a.m. to 1.00 p.m till the conclusion of trial.

(iii) Applicant shall also attend all the dates before the Trial Court.

(iv) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)