

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) 607 OF 2018

(Shaikh Aifaz s/o. Shaikh Afsar...vs..The State, thr PSO, PS Vasant Nagar, Pusad)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri R.M. Daga, counsel for applicant.
Shri T.A. Mirza, APP for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE: 17th July, 2018.

Heard.

2 The applicant is arrested on 2.11.2017 in Crime
167 of 2017 registered with Vasant Nagar Police Station,
Pusad for offence punishable under section 302, 201 read
with section 34 of the Indian Penal Code.

3 The case of the prosecution appears to be that at
9.00 pm or thereabout on 31.10.2017 the deceased
Premkumar Thakre accompanied the applicant and co-
accused Ajaj Khan, which is witnessed by Datta @ Anil
Narayan Kolpe and Pavan Dikshit. The dead body of
Premkumar was discovered at 9.45 a.m. on 1.11.2017.

4 The case of the prosecution is that the applicant
and co-accused Ajaj stabbed Premkumar to death and
handed over the weapon to the third accused one Guddu
alias Sayyad Akram from whom the weapon is discovered
pursuant to memorandum statement under section 27 of the
Indian Evidence Act.

5 The material on record, which if proved can be

translated into legally admissible evidence appears to be the account of the two eye witnesses who have seen the deceased accompanying the applicant and co-accused Ajaj. Concededly, there is no other material including forensic material to connect the applicant to the alleged crime.

6 It may not be appropriate to make any emphatic observations on the case of the prosecution while deciding application for bail. However, at least at this stage, the time of death appears to be uncertain. Even if the eye witnesses account is considered, whether the gap between the last seen and the death is so minuscule as would exclude the possibility of some other person being responsible for the death, would be an arguable question.

7 Considering the material on record, it would not be appropriate to continue the incarceration of the applicant in custody.

8 The application is allowed.

9 The applicant be released on furnishing personal bond of Rs. 15,000/- with a solvent surety of like amount.

10 The applicant shall not enter the territorial jurisdiction of Pusad except to attend the Court hearings unless specifically permitted to do so, for compelling reasons, by the learned Trial Court.

7 The applicant shall not tamper with the evidence nor shall he attempt to influence the witnesses in any manner.

JUDGE

RSB