

Anand

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

BAIL APPLICATION NO. 946 OF 2019

Riyaz alias Raj Kharmohammad Shaikh .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Yashwardhan Tiwari, Advocate, for the Applicant
Mr. P. H. Gaikwad, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 14.06.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 146 of 2017 registered with the Aarey Police Station, Mumbai, for the alleged offences punishable under Sections 302, 323, 504 r/w 34 of the Indian Penal Code.

3. Perused the papers. According to the Complainant – Anita, owner of the Tadi shop, the incident took place on

26.10.2017 at about 6.00 p. m. She has stated that Shankar (deceased) had consumed Tadi and was going home, when Muskan came to Sama and Applicant's house and disclosed something to the Applicant, pursuant to which the Applicant stepped out from the house, caught Shankar and got him home and asked Muskan whether, Shankar was the person troubling her. Whether Muskan replied in the affirmative, Sama and the Applicant started quarreling with Shankar (deceased) and started abusing him. It is alleged that Sama slapped Shankar and thereafter, Riyaz i. e. the Applicant assaulted him with fist and kick blows. It is further stated that thereafter, Shankar started feeling giddy and fell down. It is alleged that after the deceased fell down, the Applicant again gave kick blows. Shankar was taken to the hospital, where on admission, he was declared to be dead. The Post Mortem Report of Shankar reveals that no surface injuries were seen on his body, nor was there any fracture. The Post Mortem Report shows that cause of death has not been given. Contents of stomach were sent to the Chemical Analyzer for histopathological examination, however, reports are yet to be received. Learned counsel for the Applicant submitted that having

regard to the facts, the offence would not be one under Section 302 but would be a lesser offence. Be that as it may, the same would be decided by the trial Court. Investigation is complete and charge-sheet is filed. The Applicant is in custody since 26.10.2017. The Applicant has no antecedents.

4. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 10,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned Police Station on the **first Monday of every month** between **10:00 a. m. and 11:00 a. m.** for a period of 12 months from the date of filing of the charge-sheet;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The Applicant to cooperate in the conduct of the trial.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)