

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 1116 OF 2019**

SHAHID MOHD. ALI S/O. AMIR
MOHD. ALI

.....APPLICANT

Vs.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Mr. A.H. Ponda I/by Mr. Hemant Ingle for the Applicant.
Mr. R.M. Pethe APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 18th APRIL, 2019.

P.C.:-

This is second Application for bail by the Applicant.

The earlier Application for bail was rejected by this Court, by Order dated 19th June, 2018, granting liberty to the Applicant to file a fresh Application for bail before the Trial Court, if the trial arising out of Sessions Case No. 652 of 2017 does not commence within a period of six months from the date of passing of the said Order.

2 The record indicates that, as the trial did not commence i.e. charge is not framed within the said stipulated period, the Applicant preferred an Application for bail below Exhibit-16 before the Trial Court which has been turned down by impugned Order

dated 27th March, 2019.

3 Heard the learned counsel for the Applicant and the learned APP. Perused the charge-sheet.

The present case is based on circumstantial evidence. The name of the deceased is Babulal Saini. The circumstance putforth against the Applicant is that, he was in contact with the assailants who actually assaulted the deceased Babulal Saini. To establish the said fact, prosecution relies upon the CDR records of mobile phone of the Applicant and the assailant Afzal Shaikh in that behalf. The other circumstance is that, the Applicant accompanied the assailants to the hotel namely 'Al Aqsa' and made arrangements for their accommodation there. The last circumstance putforth against the Applicant is that, he on his mobile phone contacted one travel agent and requested him to book two tickets for Jaipur-Mumbai super fast express and gave the names of the travellers as Afzal and Wasim, the alleged assailants.

4 As noted earlier, though on earlier occasion this Court had rejected the Application for bail by taking into consideration the aforesaid circumstances, till date the trial has not commenced and the Applicant is in Jail since 18th July, 2017.

The Trial Court has rejected the Application for bail of the Applicant on the ground that in a near future, the charge will be framed and the Applicant will have to be produced before the Trial Court. The second consideration, which weighed in the mind of the Trial Court is that, this Court on earlier occasion, had rejected the bail Application of the Applicant by Order dated 19th June, 2018.

5 After taking into consideration the aforestated facts, this Court is of the view that, the Applicant can be released on bail.

Hence, the following order-

- a) The Applicant be released on bail in CR No. 105 of 2017 registered with Dr. D.B. Marg Police Station, Mumbai now culminated in to Sessions Case No. 652 of 2017 on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend all the dates before the Trial Court unless exempted by the concerned Court.
- c) Any two consecutive defaults in complying with the afore-stated condition will attract the provisions of

cancellation of bail.

- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)