

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1467 OF 2019**

Mohammad Yahiya Mohammad Yunus Siddiqui ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Deepak R. Kushwaha for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 27th AUGUST 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 54 of 2017 registered with the MIDC Police Station, Navi Mumbai, for the alleged offences punishable under Sections 302, 392, 397, 201 r/w 34 of the Indian Penal Code.

3 Learned counsel for the applicant seeks bail on the ground of parity. Learned counsel for the applicant submits that similarly placed co-accused-Mohd. Nooruddin Mohd. Ayub Siddiqui has been enlarged on bail by this Court (Coram : A. S. Gadkari, J.) vide order dated 12th June 2018.

He submits that the evidence *qua* the applicant is same as that of the co-accused-Mohd. Nooruddin Mohd. Ayub Siddiqui. Learned counsel for the applicant states that the applicant has no antecedents.

4 Learned A.P.P states that there is recovery of a sim card and mobile phone of the deceased, at the instance of the applicant.

5 Perused the papers. The prosecution case rests on circumstantial evidence. According to the prosecution, there used to be quarrels between the wives of the applicant and deceased-Mohd. Hasim Mohd. Jumrati. It is alleged by the prosecution, pursuant thereto, the applicant along with co-accused Mohd. Nooruddin took the deceased near hotel-Vishal situated at Turbhe MIDC, Navi Mumbai and committed his murder by strangulating and by banging his head on a stone. During the course of investigation, the applicant was arrested. The evidence of last seen *prima facie* appears to be doubtful. The only evidence as against the applicant is that of recovery of mobile and a sim card of the deceased. The applicant is in custody since February 2017. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

6 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or more local sureties in the like amount;

- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

- (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 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 with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;
- (vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6 The application is accordingly disposed of.

7 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.