

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

CRIMINAL BAIL APPLICATION NO. 1556 OF 2018

Mohd. Shariff Mohd. Shaukat Shaikh	... Applicant
Vs.	
The State of Maharashtra	... Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 1419 OF 2018**

Shazad Ali @ Katteli Bakridu Ali	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. K.M. Sanghani for the applicant in BA No. 1556 of 2018
Mr. Monuddin Khan for the applicant in BA No. 1419 of 2018.
Mrs. G.P. Mulekar, APP for the Respondent-State.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 21st FEBRUARY, 2019.**

P.C.

1. Applicants are arrested on 26th September, 2017 in connection with C.R. N. 263 of 2017 registered with Kherwadi Police Station for the offence punishable under Section 302, 394, 397, 398 read with 34 of Indian Penal Code.

2. The prosecution case is that deceased who is the son of the complainant was found dead in the house. The complainant and other family members had gone to the native place and when they

returned home they noticed that the victim was lying dead in the house. After the arrest of the applicant, the statement of two witnesses were recorded on 28th September, 2017 and 29th September, 2017. Witness Sahil Sattar Shaikh has referred to the name of the applicant in B.A. No. 1556 of 2018 and other persons as the persons who were last seen with the deceased on the date of incident. Whereas other witness Smt. Saira Prakash Chavan has referred to the name of both the applicants as the persons who were accompanying the deceased at about 1.30 a.m. The prosecution is also relying upon the recovery of ornaments at the instance of the applicant in B.A. No. 1556 of 2018. It is also alleged that handkerchief having blood stains was also recovered at the instance of the applicant in B.A. No. 1556 of 2018 which is sent for examination and the report is awaited.

3. Learned counsel for the applicant submitted that statement of the two witnesses who had allegedly last seen the accused alongwith deceased were recorded belatedly. There are discrepancies in the statement of witnesses. It is submitted that there is no other evidence to corroborate the involvement of the applicants in the crime. There is no eye witness to the incident.

4. Per contra learned APP submits that the statement of Sahil

Sattar Shaikh and other witness Smt. Saira Prakash Chavan are sufficient to show the involvement of the applicant in the crime. It is further submitted that there is recovery at the instance of one of the applicant. The motive for the crime is robbery of the ornaments from the house of the deceased. Learned APP further submitted that the statement of Gyan Mohd. Hashmi refers to the extra judicial confession made by the co-accused who had admitted that he has committed murder of the deceased.

5. On perusal of the statement of the Sahil Sattar Shaikh it can be seen that he has not referred to the name of both the applicants. Although there is recovery of ornaments at the instance of the applicant. In the absence of strong evidence to connect him with the crime further custody of the applicants is not necessary. Investigation is completed and chargesheet has been filed. Applicants are in custody from 26th September, 2017. There are no criminal antecedents against the applicants. Considering the aforesaid circumstances, the bail can be granted to the applicants. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application No. 1556 of 2018 and Criminal Bail Application No. 1419 of 2018 are allowed;

- ii. Applicants are directed to be released on bail vide C.R. No. 263 of 2017 registered with Kherwadi Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- iii. Applicants shall report to concerned Police Station once in a month on first Saturday between 11 a.m. to 1 p.m. till further order;
- iv. Applicants shall stay out of the jurisdiction of the concerned Police Station and are permitted to enter into the jurisdiction only for the purpose of attending the concerned Police Station.
- v. Applicants shall attend the trial Court on the date of hearing regularly unless exempted by the trial Court;
- vi. Observations made in this order are for considering the application for bail and the trial Court shall not be influenced by the same at the time of trial;
- vii. Criminal Bail Application No. 1556 of 2018 and Criminal Bail Application No. 1419 of 2018 stands disposed off.

(PRAKASH D. NAIK, J.)