

Anand

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

**BAIL APPLICATION NO. 1838 OF 2019**

Salman @ Shermohammed Shafik Ahmed Khan .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Hakim Salim AR, Advocate, for the Applicant  
Mr. S. V. Gavand, APP, for the Respondent – State

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 23.09.2019**

**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. I-256 of 2018 registered with the Virar Police Station, Mumbai, for the alleged offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that similarly placed co-accused – Mohammed Hasan Zahoor Khan has been released on bail by this Court ( A. S. Gadkari, J. ) vide order dated 10.04.2019 passed in Cri. B. A. No. 2357 of 2018. He submits that the observations made in the said order would also apply to the Applicant's case.

4. Learned APP opposes the Application. He submits that the Applicant had motive to commit the alleged offence.

5. Perused the papers. According to the prosecution, the deceased – Imran Shaikh was acquainted with the Applicant and the accused No. 2 – Imran Ibrar Khan. It appears that the deceased had accepted Rs. 1,44,000/- from the Applicant, for purchase of a four wheeler vehicle. It is alleged that the Applicant had decided that if he purchased the said car from the deceased, he would appoint the accused No. 2 – Imran Khan as a driver of the said car. Despite having received the amount, the deceased did not handover the vehicle nor returned the amount, pursuant to which there was a frequent quarrel between the Applicant and accused No. 2 – Imran Ibrar Khan on one hand and the deceased on the other. It is alleged that on 28.02.2018 at around 12:30 a. m., the deceased was under the influence of alcohol and was consuming liquor in a Swift car. It is alleged that the deceased fell asleep under the influence of alcohol, pursuant to which the Applicant and the original accused No. 2 – Imran Khan alongwith other co-accused – Mohammed Hasan Jahur Khan took the deceased to an isolated spot and committed his murder by strangulating. It is alleged that in order to destroy the evidence, the dead body of the deceased was thrown in the boundry of village – Kopar on Mumbai-Ahmedabad Highway. During the course of

investigation, the Applicant and other co-accused were arrested. The prosecution case rests on circumstantial evidence. It appears that the deceased was last seen in the company of the Applicant and another accused on 28.02.2018 at around 12:30 a. m. and the dead body was found in the jurisdiction of village – Kopar on 28.02.2018 at 9.00 a. m. far away from Dongri, Mumbai. This Court whilst enlarging co-accused - Mohammed Hasan Zahoor Khan has observed that prima facie, it appears that the said connecting link thereto is very weak in nature as there is no other material to corroborate the same. Needless to state that the said observations would also apply to the case of the Applicant. No doubt, motive is alleged as against the Applicant, however, having regard to the material on record and the fact that the Applicant is in custody since March, 2018 and investigation is complete and charge-sheet is filed.

6. 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 P. R. Bond in the sum of **Rs. 25,000/-** with one or two local solvent sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the

concerned police station on the **first Saturday of every month** between **10.00 a. m. and 1.00 p. 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 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 co-operate in 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.

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

8. 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.

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

**(REVATI MOHITE DERE, J.)**