

Anand

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

BAIL APPLICATION NO. 1946 OF 2019

Noor Mohd. Ali Mohd. Siddiquie @ Babu .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. L. M. Shukla a/w Ms Vaishali Sawant i/b. Mr. Abdul K. Shaikh,
Advocate, for the Applicant
Mr. S. V. Gavand, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.09.2019

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. 427 of 2017 registered with the Malvani Police Station, Mumbai, for the alleged offences punishable under Sections 394, 302 & 380 of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that this Court (Coram : A. S. Gadkari, J.) has granted bail to similarly placed co-accused – Mohd. Zahir Mohd. Alam Siddiqui vide order dated 16.02.2018 passed in B. A. No. 2723 of 2017. He submits that the observations made in para 3 of the said order would

also apply to the present Application, inasmuch, as it is observed by this Court that the extra judicial confession allegedly made by the Applicant to one Rafiq is 'shrouded with doubt'.

4. Learned APP has tendered an Affidavit of Ashok Mahadu Bade, PI, Malvani Police Station, Mumbai to oppose the Application.

5. Perused the papers. This Court has raised some doubts on the extra judicial confession, whilst enlarging the co-accused - Mohd. Zahir Mohd. Alam Siddiqui on bail. As far as recovery of articles at the instance of the Applicant from an open space, no statement of any witness has been recorded, identifying the recovered articles. The role of the Applicant is more or less similar to that of co-accused - Mohd. Zahir Mohd. Alam Siddiqui, who is enlarged on bail by this Court. Accordingly, 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 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 framing of charge;

(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 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 allowed in the aforesaid terms and 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.

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

(REVATI MOHITE DERE, J.)