

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

CRIMINAL BAIL APPLICATION NO. 2357 OF 2018

Mohammed Hasan Zahoor Khan	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Hakim Salim for Applicant.
Mr.Ajay Patil, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 10th April 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. I-256 of 2018 dated 28/02/2018 registered with Virar Police Station, District Palghar, for the offence punishable under Section 302, 201 read with 34 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the chargesheet.

3] The applicant is accused No.3 in the present crime. The prosecution case in brief is that the accused No.1 Salman @ Sher

Mohammed Shafik Ahmed Khan and accused No.2 Imran Ibrar Khan are relatives. The deceased Imran Rajijan Khan was having acquaintance with the accused Nos.1 and 2. That the deceased had accepted a sum of Rs.1,44,000/- for purchase of a four wheeler vehicle from accused No.1. It was decided that, after purchase of the said car, the accused No.1 will employ the accused No.2 as driver on the said car. The deceased had represented the accused Nos.1 and 2 that, he was having contacts in “Ola Company” and he would assist the accused Nos.1 and 2 in purchase of a four wheeler car and for employment of accused Nos.2. That the deceased despite accepting the said amount, neither purchased the vehicle nor returned the said amount. As the deceased did not repay the amount accepted by him, there used to be frequent quarrels between accused Nos.1 and 2 on the one side and deceased on the other side. It is alleged that, on 28th February 2018 at about 12.30 am, the deceased was under the influence of alcohol, had been to the betel leaves shop of the accused No.1. The deceased thereafter started drinking beer by sitting in a swift car bearing No.MH-46/BB-1062, which was parked nearby. Under the influence of alcohol, the deceased got fast asleep in the said car and as per the prosecution, the accused Nos.1 and 2, with the help of

the applicant herein took the deceased at an isolated place and thereafter, committed his murder by strangulation. It is alleged that the applicant herein assisted the accused Nos.1 and 2 in commission of the said crime by holding hands and legs of the deceased. It is also alleged that, with a view to screen the evidence, the dead body of the deceased was thrown in the boundaries of village Kopar situated on Mumbai-Ahmedabad Highway and within the jurisdiction of Virar Police Station. The dead body of the deceased was noticed by the witnesses at about 9 am of 28th February 2018 in the boundary of village Kopar. During the course of investigation, the applicant came to be arrested on 19th March 2018 and after completion of investigation, police have submitted chargesheet.

4] The present case is based on the circumstantial evidence. The motive alleged by the prosecution for commission of murder of deceased revolves around accused No.1 and at the most with accused No.2, as noted earlier. The deceased was last scene in the company of the applicant and other accused persons on 28th February 2018 at about 12.30 am at Dongari, Mumbai. The dead body of the deceased was found in the jurisdiction of village Kopar situated at Mumbai-

Ahmedabad Highway, within the jurisdiction of Virar Police Station on 28th February 2018 at about 9.00 am which is far away from Dongari, Mumbai. Though, it is alleged by the prosecution that, the applicant along with other two accused persons took the deceased from the said Maruti Swift Car to the village Kopar situated on Mumbai-Ahmedabad Highway, it *prima-facie* appears that the said connecting link thereto is very weak in nature as there is no other material to corroborate the same.

5] The applicant is in jail since 19th March 2018 and after completion of the investigation, the police have submitted chargesheet.

6] In view of the above, the applicant can be released on bail.

Hence, the following order :-

(i) The Applicant shall be released on bail in C.R.

No. I-256 of 2018 dated 28/02/2018 registered with Virar Police Station, District Palghar, on his furnishing P.R. bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from Jail, the applicant shall attend all the dates before the trial Court, unless

exempted by the concerned Court.

(iii) In case of two consecutive defaults, the Prosecution is at liberty to file an application for cancellation of bail.

(iv) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.

(v) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]