

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

CRIMINAL APPLICATION NO. 622 OF 2018

Masiruddin Musiyar Mulla ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Adenwala Mohammed Shakeel for Applicant.

Ms. S. S. Kaushik, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 10, 2019.

P.C. :

. Perusal of the chargesheet in Crime No. 373 of 2018 punishable under Sections 420 & 406 read with Section 34 of the Indian Penal Code demonstrates the role of the Applicant to the extent of the act in furtherance of common intention with the other accused persons.

2. So far as the chargesheet is concerned, there is hardly any material on record which could pin-point remote involvement of the Applicant in connivance with the other accused persons who are absconding.

3. The learned Sessions Court has already ordered the release of the Applicant in the aforesaid crime by imposing a condition to deposit an amount of Rs. 9,39,666/- thereby dividing the amount in the offence against each of the Accused. This Court has noticed that provision under section 34 of the Indian Penal Code is involved against the Applicant. Upon appreciation of entire record of the prosecution Applicant's involvement cannot be *prima facie* inferred.

4. Hence the condition of deposit of amount as is ordered by the learned Sessions Court is waived. So far as the rest of the conditions for release of the Applicant is concerned, needless to clarify that the Applicant has to comply the same.

5. Criminal Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)