

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 26 OF 2020

Munawwar Ali Ahmed Husain Ansari ...Applicant
V/s.
The State of Maharashtra ...Respondent

Ms. Jayshree Tripathi, Advocate for the applicant.
Mr. S.R. Agarkar, APP for Respondent-State.

CORAM : SANDEEP K. SHINDE, J.

Monday, 17th February, 2020.

P.C. :

Heard.

1. Applicant is seeking enlargement on bail in Crime No. I - 844 of 2019 registered with Shantinagar Police Station for the alleged offences punishable under Sections 304, 338, 34 of the Indian Penal Code, 1860 ("IPC" for short).

2. It is prosecution's case that the applicant had constructed the building without seeking requisite permission from the Local Planning Authority. He had sold flats to different purchasers for considerations. It appears, the

building was found dangerous for human habitation and therefore, the residents were evacuated there from a day before the incident i.e. on 22.08.2019.

3. Despite warning, the four residents had entered into the building to collect their belongings which they had left over in their flats. At that time, the building crashed, wherein, two persons died and others were gravely injured. On the back drop of this fact, the subject crime came to be registered against the applicant.

4. Admittedly, the building was constructed by the applicant without permission of the Local Planning Authority which had crashed, within six to seven years of construction. Though the investigation in this case is over and the offence registered against the applicant is punishable under Section 304 of IPC, I am not inclined to release the applicant on bail, especially because when the building was constructed without permission of the Local Authority, obviously it was not as per building regulation and thus, it is to be presumed that it was not fit for habitation which ultimately points that the applicant had sufficient knowledge of the kind of construction that he had facilitated.

5. Furthermore, it may be stated that the

subject offence under Section 304 falls within the first part and it is punishable with life or punishment of rigorous imprisonment for a term which may extend to ten years. In view of the gravity of the offence and the evidence on record, the application is rejected.

6. However, the learned trial Court is requested to conclude the trial preferably before 31st May, 2021. If the trial does not conclude on or before given date, the applicant may renew his request for his enlargement on bail.

7. Application is rejected and disposed of.

8. It is made clear that observations made hereinabove shall be construed as an expression of opinion only for the purpose of refusal of bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)