

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

**CRIMINAL BAIL APPLICATION NO. 113 OF 2020**

Arbaaz Ahmed Shaikh ...Applicant

**Versus**

The State of Maharashtra ...Respondent

...

Mr. Satyavrat Joshi i/by Nitesh Mohite, Advocate for the Applicant.

Mr. S.S. Pednekar, APP for Respondent/State.

Mr. Bhagwan Kamble, A.P.I., Wanwadi Police Station, Pune.

...

**CORAM : SANDEEP. K. SHINDE, J.**  
**DATE : 11<sup>th</sup> MARCH, 2020.**

**P.C.**

Heard.

1. It is an application under Section 439 of Code of Criminal Procedure, 1973 ("Cr.P.C." for short).

2. Applicant is seeking his enlargement on bail in Crime No. I - 137 of 2019 registered with Wanwadi Police Station, Pune for the alleged offences

punishable under Section 302 of the Indian Penal Code, 1860 ("IPC" for short).

3. It is alleged that the deceased transgender person, had a relationship with the applicant. It is alleged that when the deceased threatened the applicant that he would disclose about the alleged relationship to the society, the applicant allegedly inflicted knife blows on the person of the deceased in his flat.

4. Admittedly the case is based on circumstantial evidence.

5. Mr. Joshi, learned counsel for the applicant thus, pointed out two circumstances on which the prosecution has relied on. First circumstance to connect the applicant with the subject crime is the Call Details Record coupled with tower location and the second circumstance is the recovery of blood stained knife that is the alleged murder weapon from the applicant.

6. So far as the Call Details Record and the tower location is concerned, admittedly prosecution has neither seized the mobile allegedly used by the applicant nor produced the relevant documents to show the applicant was a subscriber of his cell phone/sim card of which the call details record are collected by the prosecution. Therefore, only one circumstance left for consideration, is a recovery of the blood stained knife on the voluntary disclosure made by the applicant. However it may be stated that the recovery of the knife was from the open place and therefore at this it may not be proper to deny bail solely on this ground.

7. Mr. Joshi has also pointed out that applicant is a patient of HIV positive. Paragraph No. 8 of the order passed by the learned Sessions Judge makes a reference to it. Thus, taking into consideration the facts of the case and the evidence brought to my notice by the prosecution, the case is made out for releasing the applicant on bail.

**ORDER**

(i) The applicant is directed to be released on bail on executing P.R. Bond for the sum of Rs.25,000/- with one or more sureties in the like amount;

(ii) The applicant shall report to the Investigating Officer once in a month i.e. 30<sup>th</sup> March, 2020 and thereafter on 4<sup>th</sup> Monday of each month commencing from April, 2020 between 11 am. to 01 pm. till the charge is framed;

(iii) The applicant shall furnish the particulars of his residential address as well as permanent address and contact details to the investigating officer within seven days from the date of his release on bail;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

8. The application is allowed in the aforesaid terms and disposed off.

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

**(SANDEEP. K. SHINDE, J.)\_**