

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

CRIMINAL BAIL APPLICATION NO. 1963 OF 2019

Mohd. Taslim Mohammed Idris @ Munna ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Nadeem Shaikh, Advocate for the Applicant.
Ms. P.P. Shinde, APP for Respondent-State.

...

CORAM : SANDEEP. K. SHINDE, J.
DATE : 17th JANUARY, 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 was reported as absconding accused in Sessions Case No.193/2014 wherein three accused out of seven were tried and acquitted by the learned Additional Sessions Judge, Thane vide order dated

03.02.2017. The seven accused in the said trial were tried for the alleged offences punishable under Sections 302 r/w 120 B, 201 read with 34 of the Indian Penal Code, 1860. Besides the applicant, three more accused are absconding. The alleged incident had taken place on 08th September, 2013 whereas the FIR was lodged by the Nephew of deceased on 7th December, 2013.

3. Applicant was apprehended on 1st December, 2018. The final report against the applicant has been filed.

4. Learned counsel for the applicant submits that the role attributed to the seven accused who were tried in the aforesaid Session case is the same as attributed to the applicant. He has taken me through the judgment and in particular discussions made in Paragraph no.31 and 38 in the said judgment. He also has taken me through the evidence of prosecution witnesses and in particular, the role attributed to the applicant wherein he had also threatened the

deceased, since the deceased had purchased a land in which the applicant and co-accused were interested. The applicant ordinarily resided in Uttarpradesh and incident had taken place in Mumbai. Evidence disclosed that deceased was threatened by the applicant and co-accused on his mobile. It is also to be observed that the deceased had succumbed to the burnt injuries in as much as it is alleged he was burned alive in a taxi in which he was plying. The case therefore rests on the circumstantial evidence. Additionally, it appears the call details record of the applicant were not procured from the service provider to even suggest his presence in Mumbai on the date of the incident and or in the month of September, 2013. Furthermore, none had seen the applicant in the company of the deceased on 08th September, 2013.

5. In the given set of facts and in view of the evidence available on record, prima facie, it is observed, the role attributed to the applicant is the same, which was attributed to the three accused

persons, who are acquitted by the learned Sessions Judge in the trial arising from the same crime.

6. Learned APP has opposed the application and contended that the applicant was absconding since 2013 and being a resident of Uttar Pradesh, may not be available for the trial. Arguments are countered by the learned counsel for the applicant stating that applicant will furnish two local solvent sureties if he is released on bail.

7. In view of the facts of the case, the applicant is directed to be released on bail on the following conditions.

ORDER

(i) The applicant is directed to be released on bail in Crime no.126 of 2013 registered with Rabale MIDC Police Station, on executing P.R. Bond for the sum of Rs.30,000/- with two local solvent sureties in the like sum;

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

(iii) The applicant shall report to the Investigating Officer once in a month on the Monday of 1st week commencing from February, 2020 till the charge is framed;

(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 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.)_