

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2012 OF 2019

Salauddin Samshuddin Shaikh ... Applicant

Versus

The State of Maharashtra ... Respondent

.....

Mr. Moin Khan, Advocate for the Applicant.

Ms. Veera Shinde, APP for the Respondent – State.

PSI, S. D. Dahhade, Bhiwandi Taluka Police Station.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 18th DECEMBER, 2020.

PER COURT:

1. The applicant is arrested on 9th September, 2017 in connection with C.R. No. I-177 of 2017 registered at Bhiwandi Taluka Police Station for the offences punishable under Sections 302, 201, 120(B), 118, 202, 212 r/w. 34 of Indian Penal Code, 1860 (“IPC” for short).

2. The prosecution’s case is that missing complaint was lodged on 23rd August, 2017 about missing of Mahendra Pratap Singh @ Thakur. Missing person had left Nallasopara on 16th August, 2017 with truck driven by him. It was revealed that one Wasim had joined missing person on truck as cleaner. Wasim Khan was taken

RajeP.
Aher
Digitally
signed by
RajeP.
Aher
Date:
2020.12.23
16:36:59
+0530

into custody by police. He was brought to Valiv Police Station. Applicant was produced at police station for enquiry. Both were interrogated. They denied having knowledge about missing person. Subsequently Wasim Khan disclosed that on 18th August, 2017 Mahendra Singh had driven truck loaded with iron raw material. They left Jalana for Navi Mumbai. Shankar Chowdhari informed Wasim that he should sell material in truck to party. On 15th August, 2017 Wasim met Shankar and applicant at Kasara ghat, when truck was halted. Mahendra Singh refused to sell material from truck. They planned to kill him. All of them boarded truck. Shankar was driving truck. Applicant strangulated Mahendra Singh and Wasim caught him. Dead body was thrown besides road at Wadape. Human body was recovered.

3. Learned advocate for the applicant submitted that there is no evidence against the applicant. The prosecution is relying on the statement of the accused. There is no eye witness to the incident. Applicant is in custody from 14th August, 2017. The co-accused Javed Haiderali Shaikh @ Guddu was granted bail by Sessions Court.

4. Learned APP submitted that offence is serious. All accused conspired to kill deceased. Applicant is involved in strangulating deceased. There is seizure of mobile phone from the

applicant. There is evidence to show the involvement of the applicant. Motorcycle used by applicant to reach Kasara has been recovered. P. M. report supports prosecution case.

5. Undisputedly, there is no eye witness to the incident. The case is based on circumstantial evidence. Skeleton of body was recovered on 9th September, 2017. There are no strong incriminating circumstances to show the involvement of the applicant in the crime. The prosecution is relying on statement of accused to show involvement. Statement of Niyaz Khan do not refer to his conversation about scrap material with applicant. Statement of Abrar Khan also do not refer to involvement of applicant. Since last three years, the applicant is in custody.

6. Hence I pass following order.

ORDER

- i) Bail Application No. 2012 of 2019, is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. I-177 of 2017 registered at Bhiwandi Taluka Police Station on furnishing P.R. bond in the sum of Rs. 25,000/- (Twenty Five Thousand) with one or more

sureties in the like amount;

- iii) The applicant shall report concerned police station once in a month on every first Saturday between 11.00 am. to 1.00 pm. till further order;
- iv) Applicant shall not tamper with the evidence;
- v) Bail Application stands disposed of accordingly.
- vi) This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)