

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.159 OF 2021

Sayed Tamkin @ Tamma s/o Syed Matin,
Age 28 years, Occ: Nil
r/o Asefiya Colony, Aurangabad.

... **APPLICANT**

V/s.

The State of Maharashtra
(Through Citychowk Police Station,
Aurangabad)

... **RESPONDENT**

...
Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondents/State : Mr. S.P. Sonpawale
...

CORAM : M.G. SEWLIKAR, J.

RESERVED ON: 6th September, 2021
PRONOUNCED ON: 23rd September, 2021

ORDER:-

Heard.

2. It is the case of the prosecution that Crime No.19/2012 was registered against accused Syed Zaheer @ Shera Bakhar Qureshi. During the investigation of Crime No.19/2012 accused Syed Nazer Ali Syed Naser Ali was arrested. During the interrogation of the said Syed Nazer Ali Syed Naser Ali it was revealed that the said Syed Nazer Ali Syed Naser Ali had along with his accomplices Imran @ Mehendi had killed one Mohammed Sirajuddin Ansari

at the instance of one Nisar Gulab Rasul Khan resident of Pragati Colony who is the owner of Priya Hotel. The said Syed Nazer Ali Syed Naser Ali had given contract to kill Mohammed Sirajuddin on account of property dispute. Memorandum of accused Syed Nazer Ali Syed Naser Ali was recorded in which it was revealed that the said Mohammed Sirajuddin was abducted in Tata Indigo Car No. MH-20-AK-111 and was throttled by means of iron rod and his dead body was buried at Mitmita Shivar. The said Syed Nazer Ali Syed Naser Ali led the investigating officer to the place where the deceased was killed and the body was buried. Panchanama was drawn. Accused was arrested in the year 2012. Applicant has filed this application for bail under Section 439 of the Cr.PC.

3. Heard Shri Ghanekar learned counsel for the applicant and Shri Sonpawale learned APP for the State.

4. Shri Ghanekar submitted that there is no iota of evidence to connect the accused with the offence. No witness has mentioned the name of the applicant nor prosecution has recorded memorandum of the applicant. He submitted that in the absence of any evidence applicant cannot be kept behind the bars for an indefinite period.

5. Learned APP Shri Sonpawale opposed the application for bail and

submitted that the offence is serious in nature. Trial has made progress and therefore it will be improper to release the applicant on bail.

6. On perusal of the charge-sheet, it is seen that there is no evidence against the applicant to connect him with the offence. No memorandum statement is recorded by the prosecution. Learned APP could not point out any evidence to show the involvement of the accused in the alleged offence. In this view of the matter, it will not be proper to keep the accused behind the bars for an indefinite period. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.1,00,000/- with one or more solvent surety in the like amount, in connection with Crime No.32 of 2012 under Section 302, 363, 364, 365, 201, 120-B, read with Section 34 of the I.P.C. registered with Jinsi Police Station, Aurangabad and on condition that he shall not leave the limits of Aurangabad District without prior permission of the Court who is in the seisin of the matter. He shall not commit similar offence and shall not leave India during the pendency of this case.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.