

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

CRIMINAL BAIL APPLICATION NO. 309 OF 2020

Mosin Akbar Sayyed

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Ghanasham Jadhav i/b Biju A. Aloor, for the applicant.
Mr. S.H. Yadav, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 9th FEBRUARY 2021**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No. 424 of 2019 registered at Chaturshringi Police Station, Pune, under Sections 302, 394, 360, 120(B) read with Section 34 of the Indian Penal Code, under Section 4 (25) of Indian Arms Act and under sections 37(1) r/w 135 of the Maharashtra Police Act. The applicant was arrested on 27/04/2019 and since then he is in custody. The investigation is over and charge-sheet is filed.

2. Heard Mr. Ghanasham Jadhav , learned Counsel for the applicant and Mr. S.H. Yadav, learned APP for the State.

3. The prosecution case is that the present applicant and other accused, namely, Krishna Badekar, Nadim Pathan and Saifali Shaikh, entered in the house of one Ganesh Jategonkar on 17/04/2019 in the evening. He was threatened with weapon. His credit and debit cards were forcibly taken. He was made to give PIN numbers of those cards in his own handwriting. After that they committed his murder by smothering him with a pillow. The driver of the deceased came to the flat. Nobody responded when he rang the bell. He went to the neighbours house and took key from them and opened the door. At that time three of the offenders came out of the flat and ran away. One neighbour also saw that. That neighbour was pushed by these assailants while going away. In this case, the statement of the driver was recorded as F.I.R. He has stated that three persons had

came out of the flat when he tried to open the door. The post- mortem notes show that the opinion for cause of death was reserved and viscera was preserved for chemical analysis and histopathological examination.

4. Learned Counsel for the applicant submitted that there is no evidence against the present applicant. The applicant was not identified by the first informant and watchman of the society. He submitted that as per prosecution case, there were four accused but only three accused were seen coming out of the house. Therefore, the applicant is falsely implicated. He submitted that the articles viz. half eaten apple, gloves and a cap were recovered from the spot and were sent for examination. Applicant's DNA did not match with any of the articles. Therefore he submitted that applicant has not committed this offence and is falsely implicated in this case.

5. Learned APP relied on circumstance of recovery of credit card belonging to the deceased which was found

on the person of the present applicant when he was arrested. He submitted that there is a CCTV footage of the shop from where that credit card of the deceased was used and the present applicant is seen in that CCTV footage. He submitted that a chit containing PIN numbers of debit cards and credit cards in the handwriting of the deceased was recovered at the instance of the present applicant.

6. I have considered these submissions and with the assistance of both learned counsel, I have perused the charge-sheet. Panchnama dated 27/04/2019 carried out when the applicant was arrested shows that the applicant had a credit card of the deceased with him. That credit card was of Bank of India. The same credit card was used by the applicant in a shop at Panvel. CCTV footage of that shop shows applicant's presence at that time.

7. Besides this circumstance, on 19/4/2019 a chit

containing the PIN numbers of all credit and debit cards of the deceased written by the deceased himself was found from his house.

8. These are the strong circumstances against the present applicant and, therefore, even though he is not identified in the test identification parade, his complicity in the offence is made out. In this view of the matter, no case for grant of bail is made out.

9. The application is rejected.

(SARANG V. KOTWAL, J.)