

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 1334 OF 2021**

Mohammad Amir Kamaruddin

Ansari @ Gola

.....**Applicant**

V/s.

The State of Maharashtra

.....**Respondent**

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Mr. Shashikant P. Chaudhari i/by. Maharashtra Law
Association, Advocate for the applicant.

Mr. H.J. Dedhia, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Tuesday, 17th August, 2021.

P.C. :

1. Heard learned Counsel for the applicant and
learned APP for State.

2. Applicant seeks his enlargement on bail in
connection with Crime No.510 of 2018 registered with
Shivaji Nagar Police Station for the offence punishable
under Section 302 of the Indian Penal Code.

3. Prosecution case in brief is that, on 22nd October, 2018 deceased (Salman), applicant and their two friends were playing cards near the public toilet. At around 11:00 p.m. Mohd. Rahil and Mohd. Usmaan Umar Pathan left to their home. Whereafter the applicant and deceased went to the house of the deceased to play the cards. On 23rd October, 2018 in the morning, dead body of Salman was found lying in the pool of blood on the ground floor room of his house. Deceased's mother reported the incident to police, Whereafter spot panchanama was drawn. It shows, at the material time, the deceased's body was found in the ground floor room admeasuring 10 x 12 ft. Autopsy Surgeon opined that, Salman died due to head injury and the depressed fracture of right frontal bone. The statements of Witnesses, Mohd. Rahil Mashook Ahmed Khan and Mohd. Usmaan Umar Pathan indicates that, they had seen the deceased in the company of the applicant when they left to home. The applicant was apprehended on 22nd October, 2019. In the course of the investigation, blood stained clothes and paverblock allegedly used by him to smash the head of the deceased was recovered, at the instance of the applicant. Besides, prosecution would rely on recovery of mobile of deceased at the instance of the applicant. Therefore, it is to be stated that, prosecution case rests on the, circumstantial evidence. In other words,

the prosecution would contend that, since the deceased was last seen in the company of the applicant, the circumstances, in which Salman died were within the knowledge of the applicant.

4. Admittedly, none had seen the incident. The prosecution would largely rely on the statement of two witnesses, who were playing cards with the deceased but they left to their house at 11:00 p.m. on 22nd October, 2018. Although, the prosecution rely on the statement of one Iftekar Ahmed Qureshi, who had allegedly seen the applicant near the house of the deceased at 5:00 a.m. of 23rd October, 2018 but the fact remains, his statement was recorded nearly after three months.

5. Be that as it may, the investigation is over and the chargesheet has been filed. The case is resting on circumstantial evidence. There are no criminal antecedents against the applicant. The trial may not commence and conclude within the reasonable time. Yet applicant's presence for trial can be secured by imposing conditions.

5. For this reason, I am inclined to release the applicant on bail. Hence, the following order :

ORDER

(i) The applicant arrested in Crime No.510/2108 registered at the instance of Shivaji Nagar Police Station, shall be released on bail on executing P.R. bond for the sum of Rs.30,000/- (Rs.Thirty Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer twice a month i.e. first and fourth Monday of each month between 11:00 a.m. to 1:00 p.m. commencing from September, 2021 till the charge is framed and co-operate in the investigation.

(iii) The applicant shall furnish the present and permanent residential address and contact number to the Investigating Officer forthwith within a week of his release from jail.

(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.

6. The application is accordingly allowed and disposed off.

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

(SANDEEP K. SHINDE, J.)