

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

BHALCHANDRA
GOPAL DUSANE

BAIL APPLICATION NO.1187 OF 2020

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Date: 2021.10.08
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Mr. Akbar Kadamu Ahmad Goriya Applicant

Vs.

The State of Maharashtra Respondent

Mr. Kuldeep S. Patil for Applicant.
Mr. A.R. Kapadnis, APP for State.

Senior PI, Mr. Raju Mane, P.I. (Crime) Mr. Amarshinh Patil, Arnala Police Station.
I.O. Senior P.I., Mr. Mahesh Shetye, C.P. Office.

**Coram : NITIN W. SAMBRE, J.
Date : 7th OCTOBER, 2021**

P.C.:

1. In compliance of the order dated 6th October, 2021, Senior P.I. of the Non Applicant-Police Station is personally present in the Court and tendered his unconditional apology for not responding to the orders of this Court passed on 2nd September, 2021 and 27th September, 2021. The Senior P.I. further assures that he shall maintain

daily record about pending matters in relation to the jurisdiction of the said Police Station, in the various courts and scheduled dates of hearing so that appropriate steps in advance can be taken by responsible officer to attend the court proceedings. The statement is accepted.

2. Considering the steps taken, the explanation is accepted.

3. The applicant is seeking regular bail in Crime No. 49 of 2020, registered with Arnala Police Station, for the offence punishable under Sections 302, 201, 120(B) read with 34 of Indian Penal Code.

4. The case of the prosecution is, the applicant and other absconding accused-Afrin committed murder of Pradeep Rai.

5. The submissions of Mr. Patil, learned counsel for the applicant are, investigation in the matter is already over and the charge-sheet is already filed. Mr. Patil would invite attention of this Court to the CCTV footage and timings thereof so as to claim that the deceased was residing on 9th Floor of the building and it is difficult to infer that

within a period of three minutes of duration from entry to exit of the said building, the applicant will commit offence in question. According to him, the door was found to be locked from inside and the entire case is based on circumstantial evidence, that being so, the application is liable to be allowed.

6. Learned APP, based on the investigation papers would urge that there is sufficient material in the form of circumstantial evidence to connect the applicant in crime and that being so, the application is liable to be rejected.

7. As far as the entry and exit timings of the applicant at the scene of offence is concerned, the time taken for execution of the act of murder can be looked into and appreciated at the time of trial. What is required to be noticed is, absconding accused Afrin was initially in love with deceased, she parted the company of deceased and started enjoying company of the applicant. Whatsapp chatting produced on record sufficiently establishes the same.

8. It appears that deceased in this background issued threats to her, which fact shared with the applicant by Afrin. It is under this motive, the prosecution alleges that the offence is committed.

9. Two days before the incident, it appears that the deceased has sent threats on Whatsapp to absconding accused Afrin. The applicant and Afrin seem to have visited lastly to the scene of offence.

10. Apart from above, the conduct of Afrin to remain in regular touch with the applicant, as reflected in the statements of common friends of deceased, namely Sarfraj, Akshay and Mubaraq, speak of sufficient cloud on the very bonafides of the applicant. Co-accused Afrin is absconding. In the aforesaid background, it will be inappropriate to order release of the applicant at this stage. The application as such fails, stands rejected.

11. Liberty to approach afresh, in case investigation against co-accused, Afrin is completed.

(NITIN W. SAMBRE, J.)