

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

CRIMINAL BAIL APPLICATION NO. 1645 OF 2020

Mrs. Nazreen Shafiq Khan	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mrs. J. S. Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 28th JANUARY, 2021

P.C. :

1. The office has placed this matter for correction of the number in the cause title of the order dated 07/01/2021. As pointed out by the office, the number in the title of the order dated 07/01/2021 should be 'CRIMINAL BAIL APPLICATION NO. 1645 OF 2020' instead of 'CRIMINAL BAIL APPLICATION (ST) NO. 1645 OF 2020'.
2. The number of the application in the title of the order dated 07/01/2021 be corrected accordingly.
3. Rest of the order remains as it is.
4. Corrected order be uploaded.

(SARANG V. KOTWAL, J.)

**CORRECTED ORDER DATED 07th JANUARY, 2021 READS THUS:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1645 OF 2020

Mrs.Nazreen Shafiq Khan Applicant

versus

State of Maharashtra Respondent

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- Ms.M. J. Reena Rolland, Advocate for Applicant.
- Mr.Amit A. Palkar, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 07th JANUARY 2021**

P.C. :

1. The Applicant is seeking her release on bail in connection with C.R.No.777/2019 dated 08/10/2019 registered with Malwani Police Station, Mumbai, under sections 302, 397, 452, 341 and 120-B r/w of the Indian Penal Code. The Applicant was arrested on 15/10/2019 and since then she is in custody. Investigation is already over and the charge-sheet is filed.

2. The prosecution case is that the FIR was lodged by one

Deepak. His mother was conducting Bhis and she had collected amount of Rs.1.50 lakhs. That amount was kept in a locker in their house. On 07/10/2019 the first informant had gone to attend his work at 07.00 p.m. He returned on the next day morning i.e. on 08/10/2019 at about 06.25 a.m. At that time, he saw that his mother Kanchan was lying on the floor. Her hands were tied and she was strangulated by using an Odhani. The locker was broken. His mother's ornaments were missing. The amount kept in the locker was also missing. Police were informed. Offence was registered.

3. Heard Ms.M. J. Reena Rolland, learned counsel for the Applicant and Mr.Amit A. Palkar, learned APP for the State.
4. Learned counsel for the Applicant submitted that there was absolutely no evidence against the present Applicant. She is arrested only because of some statement given by the co-accused. These statements are inadmissible in nature. She submitted that there is no recovery at her instance. According to learned counsel for the Applicant, the call details record show

that there was some conversation between her and Abdul who was the main accused. But those calls were of very short duration and calls by themselves do not point to the guilt of the present Applicant.

5. Learned APP on the other hand submitted that the ornaments were recovered at the instance of the co-accused Abdul Rehman and Uber Shaikh. At that time, they had given name of the present Applicant. He submitted that the ornaments recovered at their instance were identified by relative of the deceased and therefore the Applicant's complicity is also made out in this case.

6. **Reasons** -:

With the assistance of both the learned counsel I have perused the charge-sheet.

7. The case is based only on circumstantial evidence. There are no eyewitnesses. The deceased was murdered by strangulation. The cause of death mentioned in post-mortem

notes is reflecting that fact.

8. It is quite apparent that the offence was committed for the purpose of robbery. The ornaments and the amount were removed. However, the evidence against the present Applicant is almost non existent. The statement of the co-accused recorded u/s 27 of the Evidence Act is inadmissible as far as the Applicant is concerned. Therefore consequent recovery has no value to implicate the present Applicant in this case.

9. The CDRs as pointed out by the learned counsel for the Applicant did not by themselves point to the guilt of the present Applicant in this case. The calls were of very short duration and it was an admitted position that the Applicant was knowing the other accused Abdul. Therefore there was nothing unusual between their contact. She submitted that the Applicant is a lady aged 31 years. She has three children; aged 3, 5 and 7 years respectively.

10. Considering all these aspects and in particular

considering a very weak nature of evidence against the present Applicant, I am inclined to grant bail to the present Applicant.

11. Hence, the following order :

ORDER

- (i) In connection with C.R.No.777/2019 dated 08/10/2019 registered with Malwani Police Station, the Applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Looking at the prevailing circumstances, it may not be possible to the applicant to furnish sureties immediately. Therefore, initially the applicant is permitted to furnish cash bail for the same amount. The applicant will have to furnish the sureties, as directed, within 8 weeks from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)