

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

CRIMINAL BAIL APPLICATION NO. 1750 OF 2020

Alam Shaikh @ Janealam Mateshbar
Hussain Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

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Ms. M. Solkar a/w. Mr. Amin Solkar, Advocate for the Applicant.
Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th MARCH, 2021.

PC :

1. This is an application for bail in connection with C.R. No.I-336 of 2019 registered with Kalyan Taluka Police Station for the offences punishable under Section 302, 201 r/w. 34 of Indian Penal Code, 1860 (IPC).

2. The case of the prosecution is that dead body of the deceased was found. On 23rd June, 2019 during the course of investigation, it was revealed that the applicant was in relationship with the victim. She was killed by strangulating and the intention to destroy all the evidence, the body of victim was burnt. The applicant was arrested on 8th July, 2019. The statement of witnesses were recorded. There is recovery of muffler from the applicant, which is

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purportedly used in strangulating the victim. The post-mortem report however does not give final opinion, as to cause of death and the same is reserved.

3. Learned advocate for the applicant submits that the entire case is based on circumstantial evidence. There is no eye-witness to the incident. The applicant is in custody from 8th July, 2019. The circumstances relied upon by the prosecution are not enough to prove the charge against the applicant. The statement of wife to whom the alleged extra-judicial confession was made by the applicant was recorded two days after the incident. She has not specified the day on which the accused had confessed about the crime to her. The statement of witness who saw Jamshed Israil Shaikh was recorded on 2nd July, 2019. He had mentioned that he saw the applicant and victim together at chicken stall center about 8 to 10 days ago. Victim got alone in rickshaw. The statement of neighbour was recorded on 9th July, 2019. She has stated that on 22nd June, 2019 she found that some persons are occupying the room premises, which were allegedly, immediately on the next day, dead body of the victim was found. The said witness did not notice any hostility in the relation of the accused and the victim.

4. Learned APP submitted that the statement of Ashwini

Bhere and Jamshed Shaikh are the circumstances, which can be used against the applicant. The applicant has also made extra-judicial-confession of crime to his wife. She has stated that there were some money transaction with the deceased and she was not returning the money and therefore the applicant has killed her. The applicant is from West Bengal and he may abscond. There is recovery of muffler from the applicant.

5. I have perused this charge-sheet. Undisputedly there is no eye-witness to the incident. It is not disputed that, the accused and victim were in relationship. The circumstances relied upon by the prosecution, are not so strong enough to further detain the applicant in custody. The alleged confession was made to the wife of applicant. However she has not stated the day on which the confession was made. The statements of Ashwini and Jamshed are read together, creates a doubt about veracity of their statements. The evidence on record does not suggest that the victim was killed by strangulation. The said fact is fortified by the PM. report. Hence, on certain conditions, bail can be granted to the applicant.

ORDER

- i) Bail Application No. 1750 of 2020, is allowed;
- ii) The applicant is directed to be released on bail in

connection with C.R. No.I-336 of 2019, registered with Kalyan Taluka Police Station on executing P.R. bond in the sum of Rs.25,000/-(Rupees Twenty Five Thousand Only) with one or more sureties in the like amount;

- iii) The applicant shall report concerned police station once in a month on every first Saturday between 11.00 am. to 1.00 pm. till further order.
- iv) The applicant shall furnish details about permanent place of residence to the investigation officer after his release on bail;
- v) The applicant shall attend Trial Court regularly on the dates of hearing of the case unless exempted by the Court.
- vi) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)