

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.286 OF 2022

Shaikh Kamil @ Guddu Shaikh Jamil ... **APPLICANT**

VERSUS

The State of Maharashtra ... **RESPONDENT**

.....
Mr. A.S. Tilve, Advocate for applicant
Mr. N.T. Bhagat, A.P.P. for respondent – State
.....

CORAM : R. G. AVACHAT, J.

DATE : 24th AUGUST, 2022.

PER COURT :

Heard. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0148/2021, registered at Karmad Police Station, District Aurangabad for the offences punishable under Sections 302, 201, 120(B) read with Section 34 of the Indian Penal Code (Sessions Case No.196/2021 pending before the Additional Sessions Judge, Aurangabad).

2. The F.I.R. has been lodged by the brother of the deceased on 20/4/2021. The dead body of his brother Shaikh Amer was found in half-burnt state in Kumbhephal Shivar on

Jalna-Aurangabad Road. As such, the F.I.R. has been lodged against unknown person.

3. The crime was investigated. According to the prosecution case, the applicant and three others (co-accused) committed murder of the deceased and then burnt his body in Kumbhephal Shivar. The case is based on circumstantial evidence. There are statements of one Homeguard and an employee of petrol pump to state, on the given night they had seen four persons and a lady in Ape Rickshaw. The statement of one who was serving with the petrol pump has been recorded two months after the incident. So far as regards statement of Homeguard is concerned, he has neither given description of the persons seen in the Ape Rickshaw nor on arrest of the applicant and co-accused they were subjected to test identification parade for their identification by him.

4. Although the learned A.P.P. objects for grant of application on the ground of seriousness of the offence, the fact remains, there is no further material to implicate the applicant in the crime in question. Similarly placed two co-accused have been granted bail. Third one was a juvenile in conflict with law. He is being dealt with separately.

5. Since the co-accused have been granted bail, and the material relied on by the prosecution against the present applicant being somewhat weak, the Court is inclined to grant bail to the applicant. Hence the order :

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0148/2021, registered at Karmad Police Station, District Aurangabad for the offences punishable under Sections 302, 201, 120(B) read with Section 34 of the Indian Penal Code (Sessions Case No.196/2021 pending before the Additional Sessions Judge, Aurangabad) on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.
- (iii) The applicant shall not tamper with the prosecution evidence.

(R. G. AVACHAT, J.)

fmp/-