

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

922 CRIMINAL APPLICATION NO.2006 OF 2022
IN APEAL/369/2020 WITH APEAL/369/2020

MAJIDKHAN SAIFULAKHAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Sudarshan J. Salunke.

APP for Respondent/State: Mr. R. D. Sanap.

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CORAM : **SARANG V. KOTWAL AND**
BHARAT P. DESHPANDE, JJ.

DATE : 01st July, 2022.

PER COURT:

. This is an application for bail during pendency of appeal.

2 The applicant was original accused No.2, who was convicted for life imprisonment on the charges of commission of murder. He faced trial alongwith his brother and nephew. The date of incident is 29th December, 2018. The allegations are that the applicant's brother Sajid was demanding Rs.5,00,000/- from Sajid's wife Mumtaz. He was telling Mumtaz to get Rs.5,00,000/- from her parents. She was being continuously harassed. In the night of 28th November, 2018, the applicant, his brother Sajid and others murdered her. On these allegations, the accused faced trial.

3 Heard Mr. S. J. Salunke, learned counsel for the applicant and Mr. R. D. Sanap, learned APP for the State.

4 The most important evidence in this case is in the form of deposition of PW-3 Gulnaz Pathan. She was wife of the present applicant and was sister of the deceased Mumtaz. She has seen the incident. She has stated that there was continuous demand from the deceased. The deceased was asked to get Rs.5,00,000/- from her parents. But she could not comply with the demand. On the night of the incident, the applicant was called to the house of other accused Sajid. This witness followed him. She saw from the window that accused Sajid and her mother-in-law had held the hands of the deceased. The applicant held legs of the deceased. Sajid then committed murder of her sister by strangulation. This witness got frightened. She came back home. After some time, the applicant and other accused got the dead body to the applicants' own house. This witness was threatened not to disclose this to anybody and was told to inform her father that the deceased had died due to heart-attack. After that, her father came and took the dead body to his village and after the postmortem, he lodged the FIR on 2nd December, 20218.

5 Learned counsel for the applicant submitted that the conduct of this witness is unnatural and she would not remain silent if

her sister was murdered in front of her. He submitted that the applicant did not have direct motive to commit the murder.

6 We have considered these submissions. Learned APP, on the other hand, relied on the evidence of PW-3 Gulnaz.

7 At this stage, the evidence of PW-3 Gulnaz is sufficiently incriminating against the applicant. Her statement was recorded according to her after 4-5 days. The FIR was registered on 2nd December, 2018 and thereafter, her statement came to be recorded. Considering that she was married to the applicant and was residing with him when the incident took place, it is not very unnatural for her to have kept quiet for some time before she could disclose the incident to police. All these facts will be to be tested during the final hearing of the appeal. At this stage, there is sufficient material against the applicant and therefore, we are not inclined to grant bail in this application. Hence, the application is dismissed.

8 The hearing of the appeal is expedited.

[BHARAT P. DESHPANDE, J.]

[SARANG V. KOTWAL, J.]