

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

BAIL APPLICATION NO. 1632 OF 2022

Shaikh Farooq @ Chhotu Shaikh Shaukat

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. H.F. Pawar, Advocate for applicant
Mr. N.T. Bhagat, A.P.P. for respondent - State
....

CORAM : R.G. AVACHAT, J.

DATE : 06th OCTOBER, 2022

PER COURT :

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant has been arrested in connection with Crime No. 30 of 2022 registered with Jalgaon Taluka Police Station, Dist. Jalgaon for the offences punishable under Sections 302 and 120-B read with Section 34 of the Indian Penal Code.

2. Heard. Perused the First Information Report ("F.I.R.") and related police papers.

3. The F.I.R. has been lodged by brother of the deceased on 27th January, 2022. It is the case of prosecution that widow of the deceased has

extra marital relationship with Accused No.1 – Shaikh Sabir Shaikh Supadu. The said relation had come to the notice of the deceased. He would, therefore, harass his wife (Accused No.3). Accused Nos.1 and 3, therefore, decided to eliminate brother of the informant. It is also the case of prosecution that the applicant is a privy to the conspiracy. The prosecution relied on the C.C.T.V. footage, wherein it is seen that one Wagon-R car arrived at a particular place. The deceased boarded the said vehicle. According to the prosecution, both, the applicant and Accused No.1 were in the car. Both of them strangled him in the car. Rear glass of the car was covered with a cloth from inside to ensure that nobody would see commission of offence in the vehicle itself. After having strangled the deceased in the car, he was thrown out thereof at some particular place.

4. The Court has watched the C.C.T.V. footage in open Court. The inmates in the car, which arrived to take the deceased therein, are not seen. This material would, therefore, cannot be termed to be an incriminating piece of evidence against the applicant. The prosecution then relied on Call Data Record indicating the applicant and Accused No.1 to have been in consistent touch on cell phone on the given time and even post incident. In view of this Court, the same would not support the prosecution case to bring the applicant closer to commission of crime. No other material is proposed to be relied on against the present applicant. The Court has, therefore, no option

but to grant the applicant bail. These observations are prima facie in nature. The trial Court shall not be influenced thereby.

5. In view of above, the application deserves to be allowed. Hence I pass the following order :-

ORDER

(I) The bail application is allowed.

(II) The applicant be released on bail, in connection with Crime No. 30 of 2022 registered with Jalgaon Taluka Police Station, Dist. Jalgaon for the offences punishable under Sections 302 and 120-B read with Section 34 of the Indian Penal Code, on 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.)

SSD