

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

BAIL APPLICATION NO. 984 OF 2021

Mansoor Raheman @ Mansoor Ali Shaikh ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Amin Solkar for the Applicant.

Mr. S.H.Yadav, APP for the State.

PSI Sandeep Shingate from Dombivali Police Stn. present.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : 1st APRIL, 2022.

P.C.

1. This is an application under Section 439 Cr.P.C., filed by the aforesaid applicant, who is facing trial in Sessions Case No.73 of 2020 on the file of the learned Addl. Sessions Judge, Kalyan for offences under Section 302 and 201 of IPC.

2. Mr. Solkar, learned Counsel for the Applicant states that the Applicant is not involved in committing any crime. He submits that there is absolutely no material to prove the involvement of the Applicant in committing the said crime.

3. Per contra, Mr. Yadav, learned APP states that the CDR record shows that the Applicant and the deceased were seen at the same location on 14.05.2019. He further states that the statement of Laxman also prima facie

proves that he had seen the Applicant along with deceased and that the knife has also been recovered at the instance of the Applicant.

4. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

5. The records reveal that the dead body of deceased Sabira was found near a Nala at Bhopad Road. The Complainant Sharad Shelke , Assistant Police Inspector, went with the squad, conducted inquest panchanama and sent the body for post-mortem. The medical reports indicate that the death of deceased was caused by hemorrhage and shock due to cut throat injury. Mr. Sharad Shelke lodged a complaint against an unknown person for causing death of the said unknown person. In the course of investigation, identity of the deceased was established. Rafiq Khan, son of the deceased had identified the body of his mother. Statement of Rafiq Khan, was recorded. His statement revealed that his mother had left the house on 16.5.2019 at about 6.00 p.m. and that she had not returned till late night. He had therefore lodged missing report. He had stated that the Applicant was earlier residing on the mezzanine floor of their house and that there was love relationship between his mother and the Applicant. About five years prior to the incident, he had left the room and he was residing elsewhere in Mumbai. The witness had stated that he had learnt that the Applicant had gone to his native place at Kerala and had got

married. The witness suspected that the Applicant was involved in causing death of his mother.

6. As per the CDR and phone tracking details, the deceased and the Applicant were at the same location on 14.05.2019, which was prior to the deceased went missing. The statement of Laxman indicates that the police had shown him two photographs. He had identified the said lady as the deceased and he had stated that the person whose photograph was shown was seen along with the deceased. The photographs which were allegedly shown to the witnesses do not form part of the chargesheet. The statement of this witness does not indicate that he was shown the photograph of the Applicant and the Applicant was the same person who was seen with the deceased. No identification parade was conducted.

7. Under the circumstances, prima facie, there is no material on record to link the Applicant with the said crime. Considering the above facts and circumstances, in my considered view, this would be a fit case to release the Applicant on bail. Hence the Application is allowed on the following terms and conditions:- .

(i) The Applicant who is facing trial in Sessions Case No.73 of 2020 on the file of the learned Addl. Sessions Judge, Kalyan, is ordered to be released on bail on furnishing bail bond of Rs.40,000/- (Rupees Forty Thousand Only) with one or two solvent sureties in the like amount, one of

whom shall be a local surety, to the satisfaction of the learned Sessions Judge, Kalyan;

(ii) The Applicant shall report to the Investigating Officer or Sr. P.I. of the Dombivali Police Station on the first Monday of every month until further orders;

(iii) The Applicant shall attend all the dates before the Sessions Court till conclusion of the trial.

(iv) The Applicant shall not tamper with the evidence in any manner;

(v) The Applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer;

(vi) The Applicant shall not change his residential address without prior intimation to the Investigation Officer.

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(ANUJA PRABHUDESSAI, J.)