

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1230 OF 2022

Shamshul @ Samsu Jangej Sajjad .. Applicant
Khan

Versus

The State of Maharashtra .. Respondent

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Ms.Anjali Mishra with Ms.Angela Singha i/b Mr.Ramesh
Mishra for the Applicant.

Mr.S.H.Yadav, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 17th AUGUST, 2022

P.C:-

1. The applicant came to be arrested in connection with
C.R.No.206 of 2018 on 27/09/2018.

2. C.R.No.206 of 2018, which invokes Section 302 read with
Section 34 of IPC, arraign four persons as accused, the
applicant being arraigned as accused No.4. On the charge-
sheet being filed against the three accused persons, he was
shown as a wanted accused.

3. The three accused persons were tried in Sessions Case No.1112 of 1998 by the Sessions Court at Mumbai and by judgment dated 06/12/2003, accused Nos.1 to 3 came to be acquitted of the charges and were directed to be released, if not required in any other case.

4. Learned counsel for the applicant by relying upon the said judgment, would submit that the applicant also deserves an acquittal, since before the Sessions Court, prosecution was not able to bring any evidence, either direct or circumstantial, to link the accused persons to the crime in question. She would submit that while answering point No.1 framed, as to whether the death of Ekbal Samad Khan was homicidal, it was answered in the affirmative, but acquittal of the accused persons is on the ground that the prosecution has failed to prove that accused Nos.1 to 3 had caused the homicidal death.

When the judgment placed on record in Sessions Case No.1112 of 1998 is perused, accused Nos.1 to 3 are acquitted of the offence under Section 302 read with Section 34 of IPC, as the prosecution has failed to bring home the guilt of the accused.

5. Learned counsel for the applicant would submit that the applicant was not absconding, but he was in judicial custody in

connection with some other C.R. and, therefore, his arrest was shown as on 27/09/2018.

6. Considering the case of the prosecution having failed against all other three accused persons, the fate of the trial of the applicant can also be assumed, to result in similar conclusion. However, he will have to undergo the trial and it is the submission of the learned counsel for the applicant that the trial has not yet commenced.

In the wake of the accusations levelled against the applicant in the charge-sheet and in the light of the acquittal of the three accused persons, where the prosecution has miserably failed to establish their guilt, the applicant deserve his release on bail in connection with Sessions Case No.317 of 2018.

: ORDER :

(a) Application is allowed.

(b) Applicant -Shamshul @ Samsu Jangej Sajjad Khan shall be released on bail in connection with C.R.No.206 of 1998 registered with Andheri Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount,

unless he is detained in custody in connection with other crime.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(d) The applicant shall attend the trial on regular basis unless and until exempted by the trial Court.

(SMT. BHARATI DANGRE, J.)