

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1352 OF 2022

Mehraj Gulam Khan .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Manas Geawankar with Mr.Mohammad S.Mulla for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

PI B.A.Shaikh attached to Nagpada Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 23rd AUGUST, 2022

P.C:-

1. The applicant is facing charge under Sections 449, 396, 120-B read with Section 34 of IPC in C.R.No.226 of 2014 and he came to be arrested in connection with the said C.R. on 11/09/2020. Pertinent to note that the other co-accused in the said C.R. were arrested immediately after its registration and subjected to trial in Sessions Case No.761 of 2014. By judgment dated 27/06/2017, they came to be convicted for the

offences punishable under Sections 302, 392, 452 and 342 of IPC by the learned Additional Sessions Judge, Gr.Bombay. On the Appeals being filed before this Court, they were acquitted by recording that the prosecution has not proved the guilt of the accused beyond the reasonable doubt.

A copy of the judgment passed by the learned Division Bench of this Court on 24/02/2022, clearly record that the prosecution has failed to adduce any evidence, which would establish the charge under Section 302 of IPC against the accused. Recording that that there are no ligature marks nor thumb marks on the neck of the deceased and further recording that the injuries which were noticed in the postmortem report, it was specifically concluded that on the basis of the approximate cause of death, when the dead body was seen in the morning with no visitor visiting him in the night, the prosecution has failed in it's duty to bring home the guilt of the accused. One of the co-accused, who is also arrested on 05/02/2021, sought his release on bail in the background of the judgment in Criminal Appeal No.25 of 2018 and I had an opportunity to deal with the said application. By order dated 21/07/2022, by recording that in the wake of the material compiled in the charge-sheet, which would no way

implicate the applicant/accused to the murder of the deceased and, particularly, since the co-accused are acquitted of the charges levelled, the applicant was held entitled to be released on bail and, accordingly, he was conferred his liberty. There is no reason why the same analogy cannot be applied to the present applicant. Hence, the applicant is entitled for his release on bail.

It is clarified that the observations above are prima facie in nature and limited for the purpose of adjudication of the bail application and based on the observations made by the learned Division Bench of this Court.

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Mehraj Gulam Khan shall be released on bail in connection with C.R.No.226 of 2014 registered with Nagpada Police Station, on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the 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 furnish his residential address and contact number to the Investigating Officer within a period of one week from the date of his release on bail and shall keep him updated about change in address, if any.

(e) The applicant shall attend the trial on regular basis, unless specifically exempted by the trial Court.

(SMT. BHARATI DANGRE, J.)