

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3540 OF 2021

Aslam Noor Mohd. Qureshi @ Munna .. Applicant
Choti

Versus

The State of Maharashtra .. Respondent

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Ms.Jyoti R. Sahu for the Applicant.

Ms.A.A.Takalkar, A.P.P. for the State/Respondent.

PSI S.D.Patil, attached to Shivaji Nagar Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 12th SEPTEMBER, 2022

P.C:-

1. The applicant faces charge for the offences punishable under Sections 307, 387, 120-B, 143, 144, 147, 148, 149, 364-A, 506 (2) of the Indian Penal Code and Sections under Sections 37(1)(a) and 135 of the Maharashtra Police Act. The applicant came to be arrested on 18/12/2019 in connection with the subject C.R., on a complaint filed by the wife of the deceased Hanif Sayyed, aged 30 years.

2. The charge-sheet also compiles the statement of the deceased, which was recorded when he was in a conscious condition and was able to give his statement.

Perusal of the said statement would reveal that he has specifically stated that he constructed a jhuggi on a land, which was in the name of his mother-in-law and started residing there. Immediately thereafter, the present applicant alongwith other unknown persons visited him and demanded sum of Rs.50,000/- for constructing his hutment over the said place. He sought some time to make the desired payment. On 20/05/2019, he was visited by some persons, reiterating the demand, at the instance of the present applicant and they demanded money from him and he was also assaulted. The actual incident, which resulted in the death, is alleged to have taken place on 21/05/2019, when the injured himself has stated that he was pulled out of his house and was stabbed by one Kalam and the co-accused Sikandar assaulted him by means of an iron rod and other accused persons, being Sufiyan, Tausif and Ahmed are alleged to have assaulted him by fist and blows.

3. Upon the aforesaid statement being made, he succumbed to the injuries with the history of assault. The injury

certificate reflect the injuries and the cause of death is given as, "Death due to stab injuries and it's complications".

It is not the case of the prosecution that the applicant has participated in the said assault and the learned A.P.P. specifically admits that the applicant was not the assailant. Her submission is that at the instance of the applicant, the other co-accused assaulted the deceased and he succumbed to the injuries. As far as the accusations in respect of Section 387 are concerned, the applicant will take the consequences of his act, but in the wake of the material compiled in the charge-sheet, which ultimately reveal that the applicant was not one of the assailants and injuries which resulted in death are not attributed to him, he deserves his release on bail.

4. Needless to state that the observations made above are, *prima facie*, in nature and limited to the extent of adjudication of the present application and the learned Judge trying the applicant for the offences with which he is charged, shall not get influenced by the above observations, in any manner.

: ORDER :

- (a) Application is allowed.
- (b) Applicant – Aslam Noor Mohd. Qureshi @ Munna Choti shall be released on bail in connection with

C.R.No.262 of 2019 registered with Shivaji Nagar Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

The applicant shall be released on cash bail of Rs.25,000/- for a period of four weeks in lieu of sureties and during the said period, he shall arrange for the sureties.

(c) The applicant shall mark his attendance before the concerned Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon till framing of charge.

(d) 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.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

(SMT. BHARATI DANGRE, J.)