

AGK

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

BAIL APPLICATION NO.357 OF 2023

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Somnath Ashok Pawar

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Priyal G. Sarda for the applicant.

Mr. P.H. Gaikwad, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 24, 2023

PC.:

1. This is an application under Section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with C.R. No.239 of 2020 registered with Alandi Police Station for offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

2. According to prosecution, on 5 August 2020 the applicant and remaining two co-accused assaulted the deceased for non-payment of auto-rickshaw rent. According to prosecution, the quarrel between the deceased and applicant and others was witnessed by fellow rickshaw driver at 9.00 p.m. In support of the case, recovery of mobile and leather wallet of the deceased containing Aadhar card and PAN card identified by the wife of the deceased is placed on record.

3. The applicant was arrested on 8 August 2020. The learned Sessions Judge by order dated 27 October 2021 rejected the application filed by the applicant under Section 439 of the Criminal Procedure Code, 1973.
4. On perusal of the charge-sheet, it appears that the prosecution's case is based on circumstantial evidence. The circumstances are: (i) last seen; (ii) recovery of mobile phone; and (iii) recovery of leather wallet of the deceased.
5. On perusal of the material on record, it appears that the mobile phone was recovered from open space. The recovery of leather wallet of the deceased is from the backside of the auto-rickshaw. Recovery was effected on 12 August 2020. Probable time of death is not on record.
6. Moreover, remaining co-accused have been released on bail by this Court. Role attributed to the accused No.2 is similar to the applicant, save and except recovery of leather wallet from the applicant.
7. The applicant was arrested on 8 August 2020. Charges are yet to be framed. It is unlikely that the trial will be over in near future.
8. On overall consideration of the aforesaid factors, the applicant has made out a case for release on bail. Hence, following order:
 - a) The bail application is allowed;
 - b) The applicant shall be released on bail in connection

with C.R. No.239 of 2020 registered with Alandi Police Station for offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860 on furnishing P.R. Bond in the amount of Rs.25,000/- along with one or two sureties in the like amount;

c) The applicant shall mark his presence before the concerned police station on first Saturday of every month between 11.00 a.m. to 2.00 p.m.;

d) The applicant shall remain present before the Trial Court on each and every date unless specifically exempted by the Court;

e) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court;

f) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

9. The bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)