

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 652 OF 2022

Manirul Tota Chaudhary

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Sukrut Mhatre, Advocate for the Applicant.

Mr. Amit A. Palkar, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No. 351 of 2020 registered with Nirmal Nagar Police Station for offences punishable under Sections 302 read with 34 of Indian Penal Code, 1860.

2. It is prosecution's case that applicant and co-accused murdered the uncle of co-accused with hammer and sharp weapon.

3. It is the contention of learned counsel for applicant that prosecution's case is based on circumstantial evidence. There is no recovery at the instance of applicant and co-accused is absconding.

Applicant is behind bar for more than three years, yet charge has not been framed. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant was last seen with deceased. There is enmity between accused No.1-Yakub Shaikh and deceased, due to which, applicant and co-accused assaulted deceased with hammer and sharp weapon. There is prima facie case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

It is alleged that applicant was last seen with deceased. It appears from record that in the area where the incident happened, applicant was seen with deceased. The prosecution's case is based on circumstantial evidence. There is no recovery at the instance of applicant. To complete chain of incident as well as to show the involvement of the applicant in the said crime, evidence is required. Applicant is behind bar for more than three years and accused No.1 is absconding. Yet, charge has not been framed, it may take time to conclude the trial.

6. Considering the above facts, applicant's further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No. 351 of 2020 registered with Nirmal Nagar Police Station on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

SHUBHADA
SHANKAR
KADAM

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by SHUBHADA
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Date:
2023.10.23
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