

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1529 OF 2022

Abhishek Rampalat Zoria

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ravishankar S. Dwivedi, Advocate for the Applicant.

Mr. Y. Y. Dabke, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.69 of 2021 registered with Worli Police Station, Mumbai, for offences punishable under Sections 302, 392 and 201 read with 34 of Indian Penal Code, 1860.

2. It is prosecution's case that applicant and co-accused had entered in the complainant's house and murdered his mother while attempting to rob the amount.

3. It is contention of learned counsel for applicant that applicant's name was not mentioned in the FIR. In the FIR, only it

was mentioned that a person who was wearing red color shirt was seen near the house where the incident happened. Except that, no witness has stated that applicant was present at the time of incident near the incident spot. There is no recovery at the instance of applicant. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant along with accused No.1 who was servant of first informant entered in the house of first informant and in attempt to rob the amount, killed mother of first informant. At the time of incident, applicant was present with co-accused. It shows his involvement in the crime. Hence, requested to reject the application.

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

6. The allegations against the applicant are that he was present along with accused No.1 at the time of incident. At that thime, he was wearing a red color shirt and on that basis, applicant is arrested. There is no incriminating material produced on record against applicant to show his involvment in the crime. There is statement of watchman of that building that he saw one person wearing red color shirt but there is no test identification parade.

Applicant is behind bar for more than two years. Moreover, co-accused who killed the mother of the complainant has been released on bail by the Trial Court. Considering the above facts, applicant's further detention is not required.

8. Considering the above facts, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No.69 of 2021 registered with Worli Police Station, Mumbai, 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.

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

10. 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.

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

(SHIVKUMAR DIGE, J.)