

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

BAIL APPLICATION NO. 1683 OF 2022

Mr. Mohammad Ali Mudassir Shaikh	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Salman Pathan i/b. Mr. Shahadab Shaikh for the Applicant.
Ms. P.N. Dabholkar, APP for the State.

CORAM : G.A. SANAP, J.

DATED : 05th DECEMBER, 2023.

P. C. :-

. The Applicant – accused no.4 has made this application for bail in C.R.No.I-36/2020 registered at CBD Belapur Police Station for the offences punishable under sections 420, 465, 466, 467, 471, 474, 201 r/w. 34 of the Indian Penal Code.

2. The learned advocate for the Applicant-accused no.4 submitted that this accused was not instrumental in actual preparation of the forged release memo. The learned advocate for the Applicant-accused no.4 pointed out that the Applicant has simply carried the envelope containing the release memo handed over to him by the advocate. It is

pointed out that the advocate was also an accused in this crime but after registration of the FIR, he died. The learned advocate for the Applicant – accused no.4 submitted that 02 more accused who were allegedly the agents working in the court premises for preparation of such documents, arrested in this crime, have been released on bail. The learned advocate for the Applicant – accused no.4 submitted that considering the role of this accused, he deserves parity with the remaining 02 accused who have been released on bail. The learned advocate for the Applicant – accused no.4 submitted that 02 more accused in this crime are still wanted. The learned advocate for the Applicant – accused no.4 submitted that the Applicant is ready to abide by the conditions that may be imposed by this Court.

3. The learned APP submitted that this accused has criminal antecedents. It is pointed out that he was arrested in a crime registered at Kalamboli Police Station, for an offence of murder in 2020. The learned APP submitted that this accused was instrumental in obtaining the release memo for the release of his brother from jail. The learned APP took me through the statement of the advocate – Mr. Dattatraya Dhamal recorded under section 164 of Cr.P.C. and submitted that the accused no.4 was instrumental in preparing this document.

4. It is seen that after recording the statement of the advocate under section 164 of Cr.P.C., he was arraigned as an accused in the crime. The investigation revealed that the advocate – Dattatraya Dhamal with the assistance of the agents, prepared the false release memo. It is seen that the release memo found in the envelope was a photocopy of the original release memo. It has come on record that when this forgery was detected, the advocate – Mr. Dhamal destroyed the original release memo. It is true that the brother of this accused was in jail. He had engaged advocate – Mr. Dhamal for filing the bail application. It is seen that the bail order was granted but the Court had ordered the Applicant to furnish the solvent surety. A solvent surety was submitted. It is seen that the verification of the solvent surety revealed that it was also forged. A separate case has been registered against the surety on this count.

5. It is to be noted that this crime is the handiwork of more than one accused. The prominent role, as can be seen, in this crime was played by the advocate and those agents. The agents are released on bail. The advocate was also released on bail. This Applicant – accused no.4 who had carried an envelope containing the forged release memo,

has been languishing in jail.

6. Considering the totality of the facts and circumstances, in my view, on this count alone, the ground of parity is available to the accused. It is seen that in the crime registered under section 302 of the Indian Penal Code, this accused has been released on bail. A copy of the bail order is on record at Exhibit – D. The accused has been in jail for more than 02 years. The possibility of the completion of the trial in near future is very bleak. In the above facts and circumstances, in my view, further incarceration of the accused would not be warranted. Hence, this is a fit case to enlarge the accused from jail. The apprehension put forth by the learned APP can be taken care of by imposing appropriate conditions. Accordingly, I proceed to pass the following order :-

(a) The Bail Application is allowed.

(b) The Applicant/accused no.4 - Mr. Mohammad Ali Mudassir Shaikh be released on bail in connection with C.R.No.I-36/2020 registered at CBD Belapur Police Station, on furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one or two solvent sureties in the like

amount.

(c) The Applicant/accused no.4 shall not in any way tamper with the prosecution evidence.

(d) The Applicant/accused no.4 shall not pressurize or threaten the prosecution witnesses.

7. Bail Application stands disposed of in above terms.

(G.A. SANAP, J.)