



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

BAIL APPLICATION NO.1632 OF 2023

MOTIHUR REHMAN KABUL HUSSAIN ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Karan Singh Rajput a/w Adv. Himanshu V. Pradhan i/b.
Crawford Bayley and Co. for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI Sagar Pawashe, Kherwadi Police Station.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 3, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Section 302 of the Indian Penal Code (hereafter 'IPC' for short) registered on 10.04.2022 vide FIR bearing C.R. No.263 of 2022 with Kherwadi Police Station, Mumbai.
- 3.** The date of the incident is 10.04.2022. The applicant is the sole accused. The applicant was arrested on 10.04.2022. The prosecution case in brief is that the

applicant is a construction labourer. The deceased was also a construction labourer working on the construction site. It is alleged that the applicant and the deceased had some dispute over payment of money. This is supposed to be the motive. It is alleged that in the intervening night of 09.04.2022 and 10.04.2022 the applicant assaulted the victim on his head with a wooden stick. The wooden stick was found at the spot.

4. Learned APP submitted that the applicant had absconded and this is the circumstance which would show that the applicant was involved in commission of the present offence. The blood stained clothes are recovered at the instance of the applicant.

5. The case is based on circumstantial evidence. The applicant is in custody from 10.04.2022 for a period of more than eighteen months. The charge has not been framed. The trial is likely to take a long time to conclude. There are no criminal antecedents reported against the applicant. The incriminating material against the applicant is recovery of blood stained clothes. The investigation is complete and the

charge-sheet has been filed. The applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Motihur Rehman Kabul Hussain in connection with FIR bearing C.R. No.263 of 2022 registered with Kherwadi Police Station, Mumbai shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Kherwadi Police Station, Mumbai once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (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, in case there is any change.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) The applicant shall surrender his passport, if any, to the investigating officer.

6. The application is disposed of.

(M. S. KARNIK, J.)