

PMB

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

BAIL APPLICATION NO.2873 OF 2021

MOHAMMAD MANSUR MOHAMMAD AKBAR

ALI

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Satish B. Patil for applicant.

Ms. P. N. Dabholkar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 5, 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 C.R. No.I-58 of 2017 dated 16/03/2017 registered with Wada Police Station, District Palghar for the offence punishable under Sections 363, 302 and 201 of the Indian Penal Code, 1860.
- 3.** Learned APP vehemently opposed the application for bail.

4. It is alleged that the incident happened on 28/12/2016 when the applicant himself reported that Aminul Mohbaj Alihaq (deceased) has gone missing. It is alleged that the applicant and deceased were staying together. They were relate to each other as cousins. It is alleged that the applicant murdered the deceased. The FIR was lodged on 16/03/2017 by the uncle of the deceased. It is the contention of learned APP that a show was made by the applicant about the deceased handing over his mobile phone to the applicant by removing the sim card so that no one suspects the applicant. The applicant was arrest on 27/09/2019.

5. Learned APP submitted that the circumstances clearly indicate that it is the applicant who was last residing with the deceased, which circumstance is sufficient to indicate his complicity. The body of the deceased was found in a septic tank. The material against the applicant, as stated in the memorandum panchanama, his own statement, that he assaulted the deceased with a wooden rod. The case is based on circumstantial evidence. What was found was a

skeleton. The DNA report is still awaited. The applicant is in custody for more than 3 years and 3 months.

6. The chargesheet is filed. The investigation is complete. The trial is not likely to commence any time soon. Prolonging the custody of the applicant will only be a punishment to him pre-trial. Considering the nature of the materials against the applicant and the fact that the applicant is in custody for more than 3 years and 3 months, the applicant can be released on bail. There are no criminal antecedents reported against the applicant. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant–Mohammad Mansur Mohammad Akbar Ali in connection with C.R. No.I-58 of 2017 registered with Wada Police Station, District Palghar, shall be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him

from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

(d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change.

(e) The applicant shall attend the concerned Police Station once in a month on every Monday of the first week between 11.00 a.m. and 1.00 p.m.

4. The Bail Application is disposed of.

(M. S. KARNIK, J.)