

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2209 OF 2022

Saheb Mensar Shaikh

..... Applicant

Versus

The State of Maharashtra

..... Respondent

Mr. Shambhu M. Jha along with Mr. Suraj Pandey, Advocate for Applicant.

Ms. Pallavi N. Dabholkar , APP for Respondent-State.

Mr. A. S. Kedar, PI, N. M. Joshi Marg Police Station present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th SEPTEMBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.471 of 2021 registered with N. M. Joshi Marg Police Station, Mumbai, for offence punishable under Section 302 of Indian Penal Code, 1860.

2. It is prosecution's case that on 8th June 2021 at about 12.00 p.m., complainant was busy in cleaning the gallery of 4th floor of building viz. Shah and Nahar Industrial Estate. At that time, she noticed quarrel between two persons. She immediately went down the building to inform the supervisor about the quarrel which was going on 4th floor. It was further alleged that when the first informant along with supervisor returned back on 4th floor, she noticed applicant crossing on his quick heel. Thereafter, they

all noticed one person lying in pool of blood due to fall from 4th floor of the building. F.I.R. was lodged against unknown person. In investigation, police arrested the applicant. Test identification parade of the applicant was taken. In the test identification parade, applicant was identified by the first informant.

3. It is contention of learned counsel for applicant that applicant has been falsely implicated in this case. Initially the incident was registered as ADR i.e. Accident Death Report. First informant had stated that she was having no grievance against any person. The witnesses who have given statement have not seen the crime. Applicant had no motive to kill the deceased. After the incident, deceased was taken to hospital for medical treatment. On the way to the hospital, deceased was conscious and had stated his own name when asked by the officer present in ambulance but deceased had not stated about the incident or against the applicant. Learned counsel further submitted that applicant is behind bar for more than two years and two months. Hence, requested to allow the application.

4. It is the contention of learned APP that first informant had seen applicant with deceased. There was quarrel between them. First informant had identified applicant in test identification parade. In CCTV footage of that building, applicant was seen running. The mobile of deceased is recovered at the instance of

applicant. Learned APP submitted that the said mobile was thrown in a lake in West Bengal, which is the native place of applicant. It shows 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.

6. It is alleged that there was quarrel between applicant and deceased and in that quarrel, applicant had pushed deceased from 4th floor of the building. The said quarrel was seen by first informant. First informant identified the applicant in test identification parade. CCTV footage shows presence of the applicant in the said building at the time of the incident. Mobile phone of deceased is recovered at the instance of the applicant, that too in West Bengal, which is the native place of the applicant. It shows, there is prima facie case against the applicant.

7. In view of above, I pass following order :

(I) Application is rejected.

(SHIVKUMAR DIGE, J.)

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