

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2512 OF 2022

Alim Salim Shaikh ... Applicant

V/s.

State of Maharashtra ... Respondent

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Mr. Veerdhawal Deshmukh, Advocate for Applicant.
Mr. Y.Y. Dabke, APP for Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 11th SEPTEMBER 2023

P C:-

1. By this Application, Applicant is seeking bail in C.R.No. 373 of 2020 registered with Deonar Police Station, Mumbai for the offence punishable under Sections 302, 397, 506(2) read with 34 of Indian Penal Code, 1860 (for short "IPC") and under Section 37(1)(a) read with 125 of the Maharashtra Police Act and Sections 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (for short "MCOCA").
2. It is the prosecution's case that on 20.11.2020 at about 9.30 a.m. to 9.45 a.m. when the complainant was talking to his wife on

his cellphone near his house, at that time an unknown person came and stood in front of the complainant and attempted to snatch the cellphone of the complainant. Complainant resisted the unknown person. The said person assaulted the complainant by knife on his stomach. The unknown person took away mobile of the complainant. Complainant was admitted in hospital and on his complaint offence was registered. While taking treatment, complainant was died. In investigation police arrested the Applicant and co-accused in connection of the crime.

3. It is the contention of learned Counsel for the Applicant that there is nothing on record to show the involvement of the Applicant in the crime. Applicant has been arrested on his extra judicial confession, made to his mother. In the said extra judicial confession it is stated that when incident was happened at that time, Applicant was sitting in auto-rickshaw and after assaulting to the complainant, accused No.1 came and sit in auto-rickshaw where Applicant was sitting. Learned Counsel further submitted that Applicant was arrested on 24.11.2021 whereas his mother's statement was recorded on 26.11.2020 i.e. after two days of his arrest, hence requested to allow the application.

4. It is contention of learned APP that, Applicant was present in the auto-rickshaw when incident was happened. After assault on complainant, Accused No.1 went towards the auto-rickshaw where Applicant was sitting and after boarding in that auto-rickshaw, accused No.1 fled from the spot of incident. It shows the involvement of the Applicant in the crime. Learned APP further submitted that Applicant is the member of Organized Crime Syndicate. Hence, requested to reject the Application.

5. I have heard both the learned Counsel. Perused the FIR and charge-sheet. Admittedly, FIR was lodged against unknown person. The police has arrested accused No.1 for assaulting on complainant and snatching his mobile phone. Allegations against the Applicant are that he was sitting in auto-rickshaw when offence was being committed by accused No.1. Only one case is registered against the Applicant. The arrest of Applicant is shown on 24.11.2020 whereas allegedly extra judicial confession made by the Applicant to his mother was dated 26.11.2020. It is after the arrest of the Applicant. Applicant is behind bar more than 3 years. Investigation is completed. Charge-sheet has been filed.

6. In view of the above, I pass the following order:

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 373 of 2020 registered with Deonar Police Station, Mumbai, on executing PR.Bond in the sum of Rs.25,000/- 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 of the month 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.
7. The Application is allowed in the aforesaid terms and is accordingly disposed of.
8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date: 2023.09.16
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