

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2718 OF 2022**

Elahi Akbar Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Shailesh Kharat for the Applicant.

Mr. Amit Palkar, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 2 FEBRUARY 2023

P.C. :-

This is an application under Section 439 of the Code of Criminal Procedure, 1973 for bail.

2. The applicant came to be arrested in Crime No. 965 of 2019 registered at Wakad Police Station, Pune for the offences punishable under Sections 302, 201, 364 read with 34 of the Indian Penal Code.

3. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

4. The deceased was rickshaw driver. It is alleged that the applicant and other co-accused, who are also rickshaw driver, on the date of alleged incident abducted the deceased and committed his murder on account of some previous disputes.

5. Admittedly, the case is based on circumstantial evidence. The only incriminating evidence against the applicant is the statement of Santosh Dhaware. According to him, on the date of incident at about 11.00 p.m., he had seen the deceased, present applicant and co-accused- Akash Salve going together in the rickshaw of the deceased. He has stated that thereafter at about 1.30 p.m. the present applicant came to his house and told him that co-accused Akash Salve had committed the murder of the deceased. According to him, very same disclosure was made to him on the next day also.

6. I have perused the statement of witness- Santosh Dhaware. According to him, the alleged extra judicial confession was made to him on 4 October 2019. However, he disclosed about it to the police only on 7 October 2019 i.e., after the dead body was found and the report was lodged. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) The applicant- Elahi Akbar Shaikh shall be released on bail in Crime No. 965 of 2019 registered at Wakad Police Station, Pune for the offences punishable under Sections 302, 201, 364 read with 34 of the Indian Penal Code on furnishing PR bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

(N.R. BORKAR, J.)