

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

CRIMINAL BAIL APPLICATION NO. 2621 OF 2022

Rafiq Yunus Shaikh	...Applicant
Versus	
State Of Maharashtra	...Respondent

Mr. Kabul Singh Labana for the Applicant.
Ms. Anamika Malhotra, APP, for the Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 8th SEPTEMBER 2023.

P.C. :

1. By this application, applicant is seeking bail in C.R. No. I-289 of 2016 registered with Khadakpada Police Station, Thane for the offences punishable under Section 302, 201, 364, 120-B read with 34 of the Indian Penal Code, 1860 (for short "IPC").

2. It is prosecution's case that, brother of the complainant was abducted and murdered by the applicant, co-accused and with a view to destroy the evidence, the body of deceased was buried. During the course of investigation, it revealed that, there was a

dispute between co-accused Mukund Bhoir and deceased Vijay Bhoir, on account of alienated property. The deceased was the cousin of co-accused Mukund Bhoir. Four to five months prior to the incident, there was a quarrel between co-accused Mukund and deceased. It is alleged that, the co-accused Mukund had allegedly hatched conspiracy with applicant and other co-accused, services of applicant were engaged to kill the deceased.

3. It is contention of learned counsel for the applicant that, the allegations against the applicant are that he was a part of conspiracy to kill the deceased and he took the deceased on the motorcycle to incident spot. There is no evidence on record to show that the applicant had taken the deceased on his motorcycle. There is statement of one eye witness, who stated that, he saw that deceased was going on motorcycle with one unknown person. But, no identification parade of applicant was taken after arrest of the applicant. He is behind bar for more than seven years. The investigation is completed and charge-sheet has been filed. Hence, requested to allow the application.

4. It is contention of learned APP that, applicant took deceased on his motorcycle thereafter, his murder was committed.

Applicant was part of conspiracy to kill deceased and he was present when deceased was murdered. There is statement of eye witness who has stated that, he saw deceased was going with applicant. It shows involvement of applicant in the crime. If applicant is released on bail, he may threaten the prosecution witnesses. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and charge sheet.

6. The allegations against the applicant are that, he took the deceased on his motorcycle. The witness Santosh Patil has stated that, he saw deceased was going on motorcycle with unknown person. From his statement it reveals that, he has not taken the name of applicant. Moreover, after arrest of the applicant identification parade of applicant was not held. There is no recovery at the instance of applicant. Applicant is behind bar for more than seven years.

7. Considering the above facts, no further detention of applicant is not required.

8. In view of above, I pass following order.

ORDER

(i) Applicant be released on bail in C.R. No. I-289 of

2016 registered with Khadakpada Police Station,

Thane, on executing P.R. 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 Saturday between

11:00 a.m. to 2:00 p.m. till framing of charge.

(iii) Applicant shall not tamper with the evidence

and/or influence the prosecution witnesses.

(iv) The application is allowed in the aforesaid terms.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)