

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

BAIL APPLICATION NO. 2960 OF 2022

Mustafa Gulam Ahmad Khan ...Applicant

vs.

State of Maharashtra ...Respondent

Mr.Abhinandan Vagyani and Mr.Pankaj Kandhari – Advocate for Applicant.

Mr.S.R.Agarkar – APP for Respondent – State.

Mr.Pravin Ghatugade – API – Ulhasnagar Police Station.

CORAM : S. M. MODAK, J.

DATED : 25TH JULY 2023

P. C. :

1. Heard learned Advocate for the Applicant who is Accused No.1

- husband of the deceased Rehana Bano and also heard learned APP

I have heard them on the last date at great length.

2. Today, the matter is kept for hearing learned APP on the point

of call details report of the mobile used by the deceased. Learned

APP pointed out to me the call details report on Page Nos.167 and

171 and the relevant correspondence which was shown on last date

also.

3. The present Applicant married with Rehana on 7th December,

2019, whereas, she put an end to her life by strangulation. It

happened on 8th February, 2022 in the matrimonial house which is situated at Ulhasnagar. The intimation of death was given to Ulhasnagar Police Station by the present Applicant only and it is registered as an accidental death.

4. Later on, the First-Informant Azaz Ahmed who is brother of the deceased lodged the complaint with the same Police Station and an FIR came to be registered on 12th February, 2022 for the offence punishable under Section 304-B read with 34 of Indian Penal Code, 1860 [“IPC”]. It was registered against in all 6 persons. The offence is investigated and charge-sheet is filed.

5. In order to support the prosecution, learned APP relied upon the following materials :-

- (a) The averments in the FIR lodged by Azaz Ahmed.
- (b) Transfer of money by Altaf and Mumtaj in the account of Arzoo Ali Murtaja Khan who is the wife of Ali Khan. Said Ali Khan is the brother of the present Applicant.
- (c) The calls made by the deceased to her brother – First Informant and to one Shabnam Jaha who is the sister of the deceased.
- (d) In those calls, the deceased was shouting loudly and even the First-Informant heard the noise ‘maro maro’.

6. As against this, Mr. Vagyani for the Applicant submitted that if any call is made by the deceased to her brother – First Informant, the

tower location of the mobile used by the First-Informant ought to be at Ulhasnagar, whereas the fact is otherwise. The tower location is at Dhulia. Further he invited my attention to a statement of one Arzoo Ali Murtja Khan on Page No.116. She has explained how the money is transferred on her mobile by her brothers and it is for the purpose of deceased to incur her personal expenses.

7. It is true that learned Additional Sessions Judge while rejecting the Application in Para No.8 has noted down certain inconsistencies in between the call details report. The cell number 7385746392 stands in the name of the First-Informant Azaz. It is on Page No.165. Whereas, the call details report are on Page No.167 and the tower location is on Page No.171. The tower location of the caller is at Dhulia.

8. Furthermore, the neighbours have explained the circumstances of hearing the noise of human shouting and brother Murtaja of present Applicant Mustafa and one Yadav Vakil broke open the door of the bedroom of the flat in which, the deceased has strangled herself. One of such statements is on Page No.76 given by one Poonam Lalpratap Singh. According to Mr. Vagyani, it falsifies the allegation by the First-Informant that he heard noise of shouting when the deceased called him and presence of the Applicant.

9. Charge-sheet is already filed. The present Applicant is behind bar for more than one year. Considering the above circumstances, I do not think that his further detention is required. This is not a stage wherein Court is expected to make any comment about the inconsistencies in between the statements and materials and relating to whether the incident has really taken place or not. But, suffice to say that the case for grant of bail is made out. Hence, order :-

O R D E R

- (i) Application is allowed.
- (ii) Applicant Mustafa Gulam Ahmad Khan be released on bail in connection with C.R. No. 75 of 2022 registered with Ulhasnagar Police Station – District : Thane for the offences punishable under Section 304-B read with 34 of IPC, on furnishing personal bond and surety bond of Rs.25,000/-.
- (iii) Applicant is directed to cooperate the Police, if required.
- (iv) Applicant not to threaten the Prosecution witnesses or allure them in any manner.
- (v) Applicant to attend the trial Court punctually.
- (vi) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

10. These are my *prima facie* observations. Let the learned trial Court need not be influenced by them.

11. Application is disposed of in the aforesaid terms.

12. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]