

Shailaja

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

CRIMINAL BAIL APPLICATION NO.3868 OF 2022

Mohammad Gulam Ali Mohammad	]	
Shabir Hashmi	]	Applicant
Vs.		
The State of Maharashtra	]	Respondent

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Mr. A.K. Shukla a/w Mr. R.K. Tiwari i/b A.R. Shukla & Associates,
for Applicant.

Ms. Anamika Malhotra, A.P.P, for Respondent – State.

Mr. Anil Vasant Sonar, Police Sub Inspector, Dombivali Railway
Police Station.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 23rd JANUARY, 2024.

P.C.

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

2. There are in all 11 accused, out of which, 2 are Juveniles-in-conflict with law. Rest of the 8 accused have already been released on bail.

3. Prosecution story goes like this.

4. An First Information Report (for short “F.I.R”) bearing No.57 of 2021 came to be registered on 24th July, 2021 against the applicant with Dombivali Railway Police Station for the alleged offences punishable under sections 143, 302, 201, 120B r/w Section 34 of the Indian Penal Code and under section 147 of the Indian Railways Act.

5. Accused No.1 is the father of the victim who received an information from a person namely Sachin Gaud that his daughter was travelling in Ratnagiri Express with the deceased (Sahil). Accused No.1 had, therefore, hatched a conspiracy with rest of the accused including juveniles-in-conflict with law, who unlawfully gathered at Kalyan Railway Station. While searching the victim, they entered in D-3 coach where the victim and the deceased were found together. Subsequently, in view of the criminal conspiracy, the applicant along with rest of the accused had thrown the deceased out of the running train with an intention to kill him and, ultimately, the deceased succumbed to injuries suffered on his vital parts.

6. As usual, statements were recorded, *Panchanamas* were drawn and dead body of the deceased was sent for autopsy. After investigation, a charge-sheet is filed and the matter is now pending trial before the Additional Sessions Court, Kalyan.

7. At the outset, Mr. Shukla is at pains to submit that there is absolutely no role attributed to the applicant. Rather, the accused who had more serious role to play as per the record of the prosecution has already been granted bail by the Hon'ble Supreme Court.

8. Mr. Shukla invited my attention to an order passed by this Court in respect of the said accused – Mohammad Kasim Mohammad @ Sagir Ahmed Hashmi, whose bail application bearing No.2207 of 2022 came to be rejected by this Court vide an order dated 30th March, 2023. The same was challenged before the Supreme Court by Special Leave Petition (CRL) No.8461 of 2023. The Supreme Court, having taken note of the nature of allegations and also the period of custody which was undergone by the said accused, granted him bail by setting aside the order passed by this Court.

9. Learned A.P.P. though objects release of the applicant on bail, yet, having considered the aforesaid aspect as well as the fact that rest of the accused have already been released on bail, no purpose would be served in continuing incarceration of the applicant behind the bars. As such, I am inclined to release him on bail. Hence, the following order.

: ORDER :

- (a) The application is allowed.

- (b) The applicant – Mohammad Gulam Ali Mohammad Shabir Hashmi be released on bail upon executing a P.R bond in the sum of Rs.20,000/- with one or two sureties in the like amount in connection with C.R. No.57 of 2021 registered with Dombivali Railway Police Station, to the satisfaction of Additional Sessions Judge, Kalyan.

- (c) The applicant shall attend the Dombivali Railway Police Station on every Sunday between 10.00 a.m and 1.00 p.m.

- (d) The applicant shall surrender his passport, if any, to the Investigating Officer.

(e) The applicant shall not leave the jurisdiction of the trial Court till conclusion of the trial.

(f) The applicant shall furnish his cell number as well as residential address to the Investigating Officer and the trial Court. In case of change of cell number or residential address, same shall be informed to the Police Station and the Trial Court.

(h) Needless to state that breach of any of the conditions aforesaid would entitle the prosecution to pray for cancellation of bail of the applicant.

10. The application stands disposed of in the aforesaid terms.

[PRITHVIRAJ K. CHAVAN, J.]