

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

CRIMINAL BAIL APPLICATION NO. 4110 OF 2024

Abdul Munaf Malik Ansari

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Kuldeep Patil i/b Mr. Paras Yadav, Advocate for Applicant.

Mrs. G. P. Mulekar, APP for State-Respondent.

Mr. Vikas J. Panchmukh, PSI, Present.

CORAM:- ANIL S. KILOR, J.

DATED:- 12th NOVEMBER, 2024

PC:-

1) Heard.

2) By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No. 385 of 2021, registered with Chikhali Police Station, Pimpri Chinchwad, Pune for the offences punishable under Sections 302, 396, 347 and 452 read with Section 34 of the Indian Penal Code, 1860.

3) Having gone through the charge-sheet and the relevant material collected by the Investigating Officer during the investigation, it can be said that the whole case is based on the last-seen theory. There is a witness to the same namely Chandrakant Kavankar, whose statement

was recorded on 5th August, 2021. The said witness did not disclose the name of the accused persons but gave a description of all the accused persons, as all the accused were unknown to him. The incident took place on the intervening night of 4th August, 2021 and 5th August, 2021 and the applicants were arrested on 2th July, 2022 i.e. almost about one year and thereafter the test identification parade was held on 4th October, 2022 i.e. after three months of the arrest of the applicant.

4) Surprisingly, the dummy suspects who were present at the time of identification of co-accused Mohommad and Vasib Khan @ Tonu Rais Khan, same were the dummy suspects in the identification parade of the applicant. In both parades the witness who identified the accused was the same i.e. Chandrakant Kavankar. Thus, this is a prima facie major discrepancy in the conduct of the identification parade. There is no evidence against the applicant except the above-referenced evidence. Nothing is recovered from the applicant.

5) In the circumstances, though the learned APP has strongly opposed the application on the ground that the offence is serious, I am of the opinion that in absence of any sufficient incriminating material against the applicant, the applicant is entitled for grant bail. Accordingly, I pass the following order.

ORDER

- i The Bail Application is allowed;
- ii It is directed that the Applicant shall be released on bail in Crime No. 385 of 2021, registered with Chikhali Police Station, Pimpri Chinchwad, Pune for the offences punishable under Sections 302, 396, 347 and 452 read with Section 34 of the Indian Penal Code, 1860, on furnishing P.R. Bond of

Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount;

iii The applicant shall attend the said Police Station on 1st and 16th day of every month between 10.00 am to 11.00 am, till the conclusion of the trial except on the date of trial;

iv. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

v. Liberty is granted to the State to apply cancellation of bail if the applicant commits similar offence.;

vi. The Applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the Trial Court for any reason.

vii. Application stands disposed of, accordingly.

[ANIL S. KILOR, J.]