

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 4899 OF 2024

Mohammad Shahid Mohd. Rafik Azmi Applicant

Versus

The State Of Maharashtra Respondent

Mr. Abdul R. Bukhari, for the Applicant.

Mr. Prasanna P. Malshe, APP, for the Respondent – State.

Mr. Narendra K. Sonawane, PSI, Bhoiwada Police Station, Bhiwandi,
Dist: Thane – Present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th JANUARY, 2025.

P.C. :

1. By this application, the Applicant is seeking regular bail in C.R. No.42 of 2016 registered with Bhoiwada Police Station, Bhiwandi, Thane, for the offences punishable under Sections 302, 397 and 452 of the Indian Penal Code, 1860 (for short “the IPC”).

2. It is prosecution’s case that on 5th March, 2016, the deceased’s body was found in his room, hence offence was registered against the unknown person. During the investigation, the police has

arrested the Applicant. The allegations against the Applicant are that he murdered the deceased, on the suspicion that the deceased had illicit relation with his wife.

3. It is contention of learned counsel for the Applicant that the prosecution's case is based on circumstantial evidence. It is prosecution's case that the deceased was smothered by the pillow. The Applicant is behind bar for more than 8 year and 10 months. Only one witness has been examined so far, and it may take time to conclude the trial. Hence, requested to allow the application.

4. It is contention of learned APP that the Applicant has murdered the deceased. The grinder stone used in the crime is recovered at the instance of the Applicant. The Applicant had motive to kill the deceased, as the deceased had an illicit relation with the Applicant's wife. There are eye witnesses, who saw the Applicant with the deceased before he was murdered. The direct involvement of the Applicant is established. There is a strong *prima facie* case against the Applicant. Hence, requested to reject the application.

5. I have heard both learned counsel and perused charge sheet. The body of the deceased was found in his room, and it is alleged that he was smothered with a pillow. Initially, the offence

was registered against the unknown person. It is prosecution's case that Applicant killed the deceased on suspicion that the deceased had an illicit relation with the Applicant's wife. The police have recovered a grinder stone and golden ornaments of the deceased at the instance of the Applicant. The Applicant is behind bar more than 8 years and 10 months, and only one witness has been examined so far. The prosecution's case is based on circumstantial evidence. It may take time to conclude the trial. Considering the Applicant's long incarceration, and the prosecution's case is based on circumstantial evidence, I am inclined to allow the application, and I pass following order:-

ORDER

- i. Application is allowed.
- ii. The Applicant be released on bail in connection with C. R. No.42 of 2016 registered with Bhoiwada Police Station, Bhiwandi, Thane, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- iii. The Applicant shall mark his attendance with the concerned police station on First Saturday of each

month between 11:00 a.m. to 2:00 p.m. till the conclusion of trial.

- iv. The Applicant shall remain present before the trial Court on each date unless exempted by the Trial Court.
 - v. The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witness or any person concerned with the case.
 - vi. The trial Court shall not be influenced by the observations of this Court, as these are the *prima facie* observations and trial Court shall decide the matter on its own merit.
 - vii. The Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
6. The application is allowed in the aforesaid terms and is accordingly disposed of.
7. All the concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)