

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

**INTERIM APPLICATION NO.1444 OF 2024
IN
CRIMINAL APPEAL NO.535 OF 2024**

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Ehasan Rabban Shakur Khan

Age : 31 Years, Occupation : Nil,
Residing : At Post Sethanabad,
Taluka : Baktyarpur, District : Sarsa,
Bihar.

...Applicant

Versus

The State of Maharashtra

(Through Turbhe MIDC Police Station,
C. R. No.191 of 2017).

...Respondent

Mr.Mujahid Ansari – Advocate for Applicant.

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

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 27st JANUARY 2025

P.C. :

1. This is an Application for bail pending Appeal.
2. The Applicant was convicted by the Additional Sessions Judge, Belapur – Navi Mumbai vide his judgment and order dated 3rd July 2023 passed in Sessions Case No.645 of 2023. The Applicant was convicted for the commission of

offence punishable under Section 302 of Indian Penal Code, 1860 (“IPC”) and was sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.2,000/- (Rupees Two Thousand) and in default, to suffer rigorous imprisonment for 6 months.

3. The prosecution case is, that the Applicant was working with one Mohammad Sarfaraz Moin Khan in his tailoring shop at Mahape Gaondevi Temple.

On 9th July 2017, the Applicant brought his friend Mohammad Jasim from his native village and told the informant, that he was interested to work with them. Accordingly, the First Informant allowed him to work. He gave some money to them to have meals in the night. He then left the shop. The keys of the shop were with the Applicant. On the next day morning, one customer wanted to collect his stitched clothes. When he went to, the shop was locked. He called the shop owner. He came to the spot but neither the Applicant was there nor the keys were made available. He broke open the lock and found that Jasim’s body was lying inside the tailoring shop. The police were informed and the investigation was carried out. The Applicant was arrested on 22nd July 2017 and

since then, he is in the custody.

4. Learned counsel for the Applicant submitted, that the prosecution has not proved the motive. All the circumstances against the Applicant are hardly incriminating. There is no direct evidence. The police had seized a wire from the spot and the doctor had opined, that the strangulation was not possible by the wire in this particular case. He has submitted, that there was no other independent corroboration to the evidence of PW No.1–Mohammad Sarfaraz –First Informant.

5. He submitted, that the key was recovered from the Applicant but it was not checked with the lock.

6. Learned APP opposed these submissions. He relied upon the evidence of PW No.1 and PW No.2 who have deposed about the Applicant having keys and having company with the deceased. He submitted, that one odhani was found on the spot which was used for strangulation. He submitted, that there is sufficient material against the Applicant.

7. We have considered these submissions. The main evidence against the Applicant is the deposition of PW No.1– Mohammad Sarfaraz Moin Khan and PW No.2–Mahesh

Bachchu Daurkar. PW No.1 has deposed that on 9th July 2017, the Applicant had brought the deceased to his tailoring shop. PW No.1 gave the keys to the Applicant after closing the shop at 9.50 p.m. The Applicant and Jasim had slept in the shop. PW No.1 had told the Applicant, that on the next day morning, one customer was to collect his clothes. That was an urgent order.

8. On the next day morning at 10.30 a.m., PW No.1 received a phone call from his customer informing him, that the shop was closed. PW No.1 went there. The shop was closed. He broke open the lock and found the dead body. The police were informed. PW No.2 is even more important. He was landlord of the tailoring shop of PW No.1. The shop was given on rent. PW No.2 had his own shop. He has deposed that on 9th July 2017, he was sitting outside his house. He had seen the Appellant talking to the deceased outside the tailoring shop. He has further deposed that at about 10.50 p.m., the Applicant and the deceased went inside the shop and they closed the door from inside. On the next date, early morning at 4.00 a.m., PW No.2 got up to go for his morning walk. He saw that the Applicant was leaving the shop in a hurry. He had locked the shop from outside. He was alone. After that at 11.00

a.m., in the morning, the crime came to light. Apart from these two important witnesses, the spot panchnama shows that odhani was found inside the shop which was used to strangle the deceased. It is deposed by panch who is examined as PW No.4.

9. The medical evidence in the form of PW No.7– Dr.Bhushan Jain shows, that the death was “*due to strangulation associated with hemorrhages under scalp*”.

10. All these circumstances are strong circumstances against the Applicant. His conduct shows, that he was alone in the company of the deceased during the night and he had left the shop in the early hours. He had locked the said shop from the outside. Nobody else could have committed murder of the deceased. In view of that matter, since there is strong evidence against the Applicant, no case for bail is made out.

11. Hence, the Application for bail as well as for suspension of sentence during pendency of the Appeal is rejected.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)