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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 610 OF 2025

Fida Hussain Mohammad Hasan Shah @
Firoj

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....

- Mr. Mithilesh Mishra a/w Ms. Manasvi Bhanushali, Advocate for Applicant.
- Ms. Anamika Malhotra, APP for the Respondent-State.
- PSI- Mr. Aakash Patil, Rabale MIDC Police Station, is present.

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CORAM : DR. NEELA GOKHALE, J.

DATE : OCTOBER 3, 2025

P. C.:

1. The Applicant seeks his release on bail in connection with FIR No. I-58 of 2022 dated 04/03/2022 registered with Rabale MIDC Police Station, Thane for the offence punishable under Sections 302, 201 and 404 of the Indian Penal Code.

2. The case of the prosecution is based on circumstantial evidence. The first informant is the brother-in-law of the deceased. It is alleged that the Applicant and the deceased had gone for shopping for purchasing new clothes. On 03/03/2022 at

around 10:30 pm., they went outside the house after having dinner. Thereafter the deceased did not return home. Next day, the first informant and his wife along with others went to look for the deceased. His dead body was found near the mountains. Accordingly, they filed the present complaint and FIR came to be registered. The Applicant made an Application seeking bail before the Additional Sessions Judge, Thane. By order dated 03/03/2023, the said Bail Application is rejected.

3. Mr. Mithilesh Mishra, learned counsel appearing for the Applicant submits that the Applicant is arrested on 04/03/2022 and till date, charges are not framed. He submits that the Applicant is wrongly framed in the crime and there is no material on record to show that it is the Applicant who has committed the said crime. The entire case of prosecution is based on circumstantial evidence. He also submits that there are no antecedents against the Applicant. In these circumstances, he prays that the Application be allowed.

4. Per contra, Ms. Anamika Malhotra, learned APP has brought to my attention Section 164 statement of the first informant's wife. She has clearly stated that the deceased and

the Applicant left the house together and they were last seen together. She also has brought to my attention the Nivedan Panchanama which clearly indicates that mobile phone of the deceased was recovered from the Applicant. She thus submits that even if the nature of the evidence against the Applicant is circumstantial in nature, prima facie, the recovery of mobile phone from the Applicant indicates his complicity in the offence. In these circumstances, she submits that the Application be rejected.

5. I have heard both the counsel for the respective parties and perused the record with their assistance. Undisputedly, nature of evidence is that of circumstantial in nature. Save and except recovery of the mobile phone, there is no material at this stage on record to indicate the involvement of the Applicant in the present offence. The entire evidence is based on the last seen theory. The Applicant is incarcerated from 04/03/2022 and he has suffered custody for more than 3 years. The charges are not framed as yet and it is unlikely that the trial will conclude within the near possible future. In these circumstances, I am inclined to grant bail to the Applicant and it is ordered as under:

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;

ii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

iii) Applicant shall also attend the concerned Police Station once in a month between 11:00 a.m. to 02:00 p.m.;

(iv) Applicant shall not enter the locality of Navi Mumbai during the pendency of the trial, except to attend the Police Station and the trial Court concerned, as stipulated hereinabove;

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station;

vi) The Applicant shall not leave India, without the permission of the Trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

ix) The Applicant to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

6. The Application is allowed in the above terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

[DR. NEELA GOKHALE, J.]