

IN THE COURT OF SESSIONS JUDGE, BORIVALI
DIVISION DINDOSHI, MUMBAI

BAIL APPLICATION (EXH.4)
IN
SESSION CASE NO.241 OF 2018
(CNR NO.MHCC05-003663-2018)

**Mr. Amit Kumar @ Ammu @ Shikandar
Bhatham**

Aged 20 years, Indian Inhabitant,
residing at Iptehad Masjid Loksewa
Committee, Nr. Kohinoor Hotal,
Juhu Galli, Andheri (E), Mumbai.

...Applicant/Accused

Vs.

The State of Maharashtra
(at the instance of Inspector of
Police, Jogeshwari Police Station,
Mumbai)

...Respondent

CORAM: H.H.ADDITIONAL SESSIONS JUDGE
SHRI M.H.SHAikh (C.R.NO.13)
DATE : 25th February 2019

Adv. Pramod Shukla for Applicant/Accused.
APP Inamdar for State/Respondent.

ORDER

1. This is an application filed under section 439 of Cr.P.C. for grant of regular bail in connection with C.R.No.54/2018 registered with the respondent police station for an offence punishable under Section 302, 307, 397 of Indian Penal Code and Section 37(1) r.w. 135 of Police Act.

2. It is the case of the prosecution that one Gulam Rabbani,

complainant on 10/04/2018 lodged a complaint against an unknown person. The deceased Gulam Jabir is the brother of the complainant Gulam Rabbani. His friend Mohd. Mohsin Khan called on 10/04/2018 and told him that his brother Gulam Jabir is seriously injured at Jogeshwari (E), Mumbai and is brought to Balasaheb Thakre Hospital for treatment. When the complainant reached the hospital, he came to know that someone had stabbed by sharp knife on the throat of Gulam Jabir and therefore the complainant lodged a complaint u/s. 307 of IPC against an unknown person.

3. During investigation on suspicion, accused came to be arrested. Four boys were going from the spot of incident and they found deceased Gulam Jabir in a seriously injured condition. Therefore one of them called the police and they brought the deceased Gulam Jabir in his rickshaw to the hospital. The knife came to be recovered at the instance of the accused. Thereafter statement came to be recorded and the charge-sheet came to be filed.

4. It is the case of the applicant that he is been falsely arrested in this case. He is an innocent person and on suspicion the accused came to be arrested. There is no eye witness to the said crime. Accused is made a victim of the circumstances, though there is no material against him. There is no intention, motive and plan to commit the crime. No useful purpose will be served in keeping the accused in jail. Accused is of a tender age and therefore prayed that the application be allowed as he is ready to abide by the terms and conditions which will be imposed by this Court.

5. On this application, say of the respondent police came to be called. The respondent filed their say vide Exh.5 and reiterated the contents of the F.I.R. and investigation carried out by them in their say. The grounds for rejection of the application are that the applicant/accused, the complainant

and the witnesses are residing in the same area and if the accused/applicant is enlarged on bail, he may threaten the complainant and the witnesses. The accused/applicant hails from U.P. and therefore he may abscond. The accused/applicant may pressurize the complainant and the witnesses. The offences alleged are serious in nature and therefore prayed to reject the application.

5. Heard the learned advocate for the applicant/accused and learned APP for the State. Gone through the entire charge-sheet and the statement of the witnesses and other documents placed on record.

6. Upon hearing and going through the material placed on record, what can be gathered is that the complainant and his brother deceased Gulam Jabir had a lunch together and thereafter both went for their work i.e. driving rickshaw at about 2.00 p.m. and the incident had taken place in the night on 10/04/2018. Two motorcycles were going from the spot of the incident. They stopped and they witnessed that someone has cut the throat of the deceased Gulam Jabir and he was asking for help. Therefore one of the boy out of four boys called the police and they took the injured deceased in his rickshaw to the hospital. Their statements were recorded. Accused came to be arrested and at his instance the knife came to be seized. There is memorandum of panchanama given by the accused and at his instance the knife which he had concealed came to be seized by the police. Therefore from the statement of the witnesses and the seized knife of the accused, what can be gathered is that the accused/applicant is a culprit in this crime. The offence is serious in nature. Moreover the complainant and witnesses, so also the accused/applicant all are residing in the same area and if the accused/applicant is enlarged on bail certainly the apprehension of the prosecution seems to be proper because there might be some quarrel or any offence may occur if the accused is enlarged on

bail. He may also pressurize the witnesses. Therefore this Court finds that this is not a fit case to invoke judicial discretion in favour of the accused. Hence the order.

ORDER

Bail Application (Exh.4) stands rejected and disposed off accordingly

(M.H.Shaikh)

Additional Sessions Judge,
City Civil & Sessions Court,
Borivali Div. Dindoshi, Mumbai.

Dictated on : 25/02/2019
Transcribed on : 25/02/2019
Signed on : 25/02/2019

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

Date : 25/02/2019

Time : 05.30 P.M.

UPLOAD DATE AND TIME

Mrs. Manisha S. Putta

(H.G.Stenographer)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)	HHJ Shri M.H.Shaikh (C.R.No.13)
Date of Pronouncement of JUDGMENT/ORDER	25/02/2019
JUDGMENT/ORDER signed by P.O. on	25/02/2019
JUDGEMENT/ORDER uploaded on	25/02/2019