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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1018 OF 2015
IN
CRIMINAL APPEAL NO.802 OF 2015
WITH
CRIMINAL APPEAL NO.801 OF 2015

Husain Maqbal Shaikh & Ors.

..Applicants

Vs.

The State of Maharashtra

..Respondent

Mr. Rajiv Patil Mr. Patil i/b Pankaj R. Manohar for Applicants.

Mrs. S.D. Shinde, APP for the State.

CORAM: SMT. V.K. TAHILRAMANI, Acting C.J. &
A.S. GADKARI, J.

30th September, 2015

P.C.:

Heard the learned Counsel for the applicants-original
accused nos.2,3 and 4 and the learned APP for the state.

2 The learned Counsel for the applicants states that he is
not pressing the application for bail in relation to the applicant
nos.1 and 2 at this stage and seeks liberty to file separate
application at a later stage. Liberty as prayed for is granted.
Thus, this application is being heard only in relation to the

applicant no.3-original accused no.4.

3 There are five eye-witnesses to the incident. These eye-witnesses are PW-1- Chirakouddin, PW-2 Chiraguiddin, PW-3 Didar, PW-4 Hussain and PW-5-Haider. PW-1 is the complainant in the present case. PW-3 Didar is the injured witness in the present case.

4 The learned APP pointed out that the evidence on record shows that the applicant along with some other accused came to the spot. Then the applicant alongwith two other accused caught hold of deceased Shabbir and the other accused Shagir assaulted Shabbir on the chest with a sharp weapon. She pointed out that the role attributed to the applicant is that, he caught hold of deceased Shabbir. In support of her averments, she has placed reliance on the evidence of PW-1 Chrakouddin. However, on perusal of the evidence of PW-2, PW-3, PW-4 and PW-5 we find that though they are eye-witnesses to the entire incident, they have not stated about any such role being played by the applicant of catching hold of deceased Shabbir. Moreover, PW-2 Chiraguiddin, PW-3 Didar and PW-4 Hussain have also

stated that the applicant Majhar was not holding any weapon.

5 Looking to the fact that only one eye-witness i.e. PW-1 has stated that Majhar caught hold of deceased and the fact that the remaining four eye-witnesses i.e. PW-2, PW-3, PW-4 and PW-5 have not stated about any such act on the part of the applicant and the fact that none of the eye-witnesses have attributed any role of assault by the applicant on the deceased, we are inclined to grant bail to the applicant-Majhar. Hence, the following order:

(i) The applicant Majhar Bashir Shaikh be released on bail in the sum of Rs.25,000/- with one surety to make up the said amount.

(ii) During the period that the applicant is on bail, he shall report to Shirur Police Station, Pune on 1st of every month.

6 The Application is disposed of in the above terms.

(A.S. GADKARI, J.)

(ACTING CHIEF JUSTICE)

CERTIFICATE

**Certified to be true and correct copy of the original
signed order.**