

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

**CRIMINAL APPLICATION NO. 194 of 2016
IN
CRIMINAL APPEAL NO. 113 of 2013**

Sanjay Gopal Shinde .. Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Prashant M. Patil for the Applicant.
Mr.H.J.dedia , APP for the Respondent/State.

**CORAM : SMT. V.K.TAHILRAMANI &
SMT. ANUJA PRABHUDESSAI, JJ.
DATED : MAY 05, 2016.**

P.C. (PER ANUJA PRABHUDESSAI, J.).

1. The applicant who was accused no.7 in Sessions Case No. 62 of 2008 has filed this application seeking suspension of sentence and enlargement on bail, pending the decision of the appeal.
2. Heard Shri Patil, the learned Counsel for the applicant and the learned APP for the State. We have perused the records and considered the submissions advanced by the learned Counsel for the

respective parties.

3. The applicant herein has been held guilty of the offences under Section 148, 302, 307, 506(ii), 364 r/w. 149 of IPC. The case of the prosecution in brief is that the applicant and the other co-accused formed an unlawful assembly and had kidnapped one Pintya @ Kiran and committed his murder.

4. The testimony of PW1 reveals that on 29/09/2007 at about 9.00 p.m. the deceased Pintya had received a phone call, and he had replied that he was standing at Ambedkar Square, Khadki. About 10-15 minutes thereafter a scorpio jeep arrived at the spot. There were 6-7 persons in the said jeep. PW1 and Pintya got in the jeep and Pintya sat next to the driver.

5. PW1 has stated that the accused no.1 Balasaheb who was present in the jeep removed a revolver and snatched the mobile of Pintya. PW1 has further deposed that accused no.1 had assaulted him and Pintya alleging that Pintya was helping one Rakesh Bharne in the Court matter. Subsequently, the accused no.1 fired gunshots at Pintya, and they threw the body of Pintya by the side of the road.

6. The testimony of this witness indicates that in the Test

Identification Parade, he had identified the applicant herein as one of the persons who was present in the jeep along with the other accused. PW1 has also identified the applicant before the Court.

7. The evidence of PW1 prima facie reveals that the applicant was a member of the unlawful assembly which was involved in committing murder of Pintya. The fact that the applicant had chosen not to report the matter to the police prima facie falsifies the contention that he did not share the common object and that he was merely traveling along with the other co-accused.

8. Considering the nature of the evidence and the facts and circumstances of the case, we are not inclined to suspend the sentence and enlarge the applicant on bail pending the decision of appeal. Hence the application is dismissed.

(ANUJA PRABHUDESSAI, J.)

(SMT. V.K.TAHILRAMANI, J.)