

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1078 OF 2016
(For Bail)
IN
CRIMINAL APPEAL NO. 1225 OF 2011

Abdul Noorahmad Shaikh ... Applicant
Vs.
The State of Maharashtra ... Respondent

Ms. Snehal Khairnar i/b. Ms. Lakshmi Raman, Advocate for the applicant.
Mr. Arfan Sait, APP for the Respondent – State.

CORAM: SMT. V.K. TAHILRAMANI &
MRS.MRIDULA BHATKAR, JJ.

DATE: SEPTEMBER 7, 2016

ORDER : (Per Mrs. Mridula Bhatkar, J.)

The applicant/appellant is convicted for life imprisonment for the murder of one Jabbar Abdul Kadar Shaikh on 21st November, 2007 at around 8.15 p.m. The appellant/accused and other 4 accused were convicted by the judgment and order dated 4th June, 2011 by the Ad-hoc Additional Sessions Judge, Solapur in Sessions Case No. 67 of 2008. Being aggrieved thereby, the applicant/accused filed Criminal Appeal No. 1225 of 2011. Hence, this Application for bail.

2. The learned counsel for the applicant submitted that there are three eye-witnesses. The appellant/applicant is behind bar since last 9 years.

He has been released on furlough and parole on several occasions and there is neither any complaint nor default on his part. She submitted that as there is no chance that the Appeal will be heard in near future, specific role has been attributed by these eye-witnesses. This is a fit case to grant bail to the applicant, pending Appeal. In support of her submissions, she relied on the ratio laid down by the Hon'ble Supreme Court in the case of **Kashmira Singh vs. State of Punjab, 1977 AIR 2147.**

3. Learned APP opposed the Bail Application. He submitted that he has specific instructions in respect of report of the applicant/accused about his default or complaint when he was released on parole or furlough.

4. We have perused the evidence especially the deposition of PW-19 Samir Moula Shaikh and PW-21 Yusuf Babu Pathan where both the eye-witnesses have taken the name of the applicant/accused as assailant and also have stated that applicant was armed with weapon like gupti or sword along with other accused. Perused the PM notes wherein 19 wounds are mentioned, out of which most of the wounds are incised wounds. We have considered the ratio laid down in the case of **Kashmira Singh** (*supra*), however, in the case of **Sunil Kumar Sinha vs. State of Bihar & Anr., reported in (2010) 3 SCC (Cri) 299**, the three Judges Bench of the Hon'ble Supreme Court has observed that “merely because the High Court

is unable to hear the case in the near future ipso facto cannot be the ground to release the accused on bail". Considering this, we are not inclined to grant bail. Application is rejected.

5. The Appeal to be added in the Final Hearing board in the week commencing from 24th October, 2016.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)