

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1234 OF 2015
IN
CRIMINAL APPEAL NO.128 OF 2012

Noor Mohamad Sayed Mohd. Pathan ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mrs.Nasreen S.K. Ayubi, Advocate appointed for the Applicant
Mrs.U.V. Kejriwal, APP, for Respondent – State

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

DATE: JULY 27, 2016

P.C.:

1. Heard both sides.
2. The applicant i.e., the original accused No.1, has been convicted under section 302 r/w section 34 of the Indian Penal Code and also under section 385 of the Indian Penal Code. The applicant is now seeking bail.
3. Bail is being sought on merits as well as on the ground that marriage of his daughter is to take place. As far as marriage of the daughter is concerned, no date has been fixed for the marriage. In this view of the matter, we are not inclined to release the applicant on bail on the ground of marriage of his daughter.

4. As far as merits are concerned, it is the prosecution case that on 11.5.2008, at about 8.30pm, the applicant alongwith the co-accused, assaulted Afzal Shaikh with choppers. There are three eye witnesses to the incident i.e., PW1 Arif Afzal Shaikh, PW5 Mohd. Abdulla Khalil Mohd. Shaikh and PW12 Taushik Bilal Khan, who have stated that the applicant has assaulted Afzal Shaikh with a chopper. In this view of the matter, on merits, we are not inclined to release the applicant on bail.

5. Thereafter, it is submitted on behalf of the applicant that the applicant has completed half period of his imprisonment and hence, he should be released on bail. The applicant is a life convict. Life imprisonment does not necessarily mean 14 years or 20 years of imprisonment. In this view of the matter, the applicant who has been in custody since 2008, cannot be said to have completed half his term of imprisonment. On this ground also, we are not inclined to release the applicant on bail. Hence, the application is rejected.

6. Looking to the fact that the applicant is in jail since the year 2008, hearing of the appeal is expedited.

7. Fees to be paid to the appointed advocate are quantified at Rs.2,500/-.

8. Office to communicate this order to the petitioner who is in Kolhapur Central Prison, Kalamba, Kolhapur.

(MRIDULA BHATKAR, J.)

(V.K. TAHILRAMANI, J.)