

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2007 OF 2017

Shaikh Munir Shaikh Noor

Applicant

Versus

State of Maharashtra

Respondent

Mr. Joydeep Chatterji, advocate for the applicant.
Mr. K.D. Mundhe, A.P.P. for Respondent/State.

**CORAM : R.M.BORDE &
A. M. DHAVAL, JJ.**
DATE : 15th JUNE, 2017

PER COURT:

1. This is an application by original accused no. 3 for his enlargement on bail who has been convicted for offence punishable under section 302 r/w 149 of Indian Penal Code alongwith other accused and is sentenced to suffer imprisonment for life and fine of Rs. 10,000/- and, in default, to suffer rigorous imprisonment for six months. Accused no. 3 / applicant herein has also been convicted for offence punishable under section 324 r/w 149 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for two years. He has further been convicted for offence punishable under section 504 r/w 149 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for one year. Accused no. 3 has been further convicted for offence punishable under section 147 r/w 149 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for one year. He has also been convicted for offence punishable under section 148 r/w

149 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for two years. All the sentences are directed to run concurrently.

2. So far as the act attributed to applicant-accused no. 3 is concerned, it is referable to assault on the person of informant PW 1 Shankar s/o Narayan Pedde. It is alleged that accused alongwith one Firoz Rahimkhan Pathan bet informant with the help of wooden bar. Other witnesses i.e. PW 2 and 3 have also deposed about the role of accused no. 3 which was confined to launching attack on the person of PW 1 informant. So far as assault on the person of deceased Bhaguram and Balaji is concerned, no role is attributed to accused no. 3/applicant herein. It is informed that accused no. 3 was on bail during the course of trial. It has not been informed that while on bail accused/applicant has misused the liberty granted to him. On scrutiny of the oral evidence recorded by the trial Court, we are of the considered opinion that since the accused/applicant has not been attributed any role in launching assault on deceased and his role is stated to be limited in respect of assault on the person of informant PW 1, and that, since the injuries which are reportedly caused to PW 1 are simple in nature, the accused/applicant deserves to be enlarged on bail.

3. For the reasons recorded above, application tendered by accused no. 3 / applicant for his enlargement on bail by suspending the substantive sentence of imprisonment deserves to be allowed. Substantive sentence of imprisonment imposed against applicant/accused no. 3 by the learned Additional Sessions Judge in Sessions Case No. 87/2009 stands suspended and the

applicant/accused no. 3 shall be enlarged on bail on furnishing bail bond of Rs. 1,00,000/- with one surety for the like amount. Bail in the trial Court.

(A.M. DHAVALA)
JUDGE

(R.M.BORDE)
JUDGE

dyb