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BA-466-2017 (sr.908)

Friday, 16.6.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 466 OF 2017

IN

CRIMINAL APPEAL NO. 269 OF 2017

IN

SESSIONS CASE NO. 607 OF 2012

Abu Rahbar Hasan Khan

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

- - - - -

Mr. Aniket Vagal, Advocate for the applicant.

Mrs. G.P. Mulekar, APP for the State.

**CORAM :- SMT. V.K. TAHILRAMANI, &
SANDEEP K. SHINDE, JJ.**

DATE : 16 June, 2017.

P.C. :-

1. Heard both sides.
2. The applicant has been convicted under Section 302

Indian Penal Code for causing death of Abdul Saboor Shaikh by firing at him with a firearm. The applicant is now seeking bail. The learned APP states that, the applicant was last seen with the deceased which is stated by P.W.1. However, it is noticed that P.W.1 has turned hostile and has not supported the prosecution.

3. The Learned APP, thereafter pointed out that the incident has occurred on 1st May, 2012. The applicant was arrested on 3rd May, 2012. When he was arrested, a revolver was found with the applicant alongwith two live cartridges. These came to be seized from him. Panch witness P.W.6-Abdul has also deposed about this aspect. Two bullets were found in the skull of the dead body. These bullets were sent to Ballistic Expert alongwith the revolver and cartridges seized from the applicant. The Ballistic Report shows that the bullets found in the dead body were fired from the revolver seized at the instance of the applicant.

4. In view of the evidence of P.W.6 and the Ballistic

Report, prima-facie, we are of the opinion that there is sufficient evidence to connect the applicant with the crime. In addition, the learned APP has pointed out that, the applicant is involved in two other cases, one case is under the Narcotics, Drugs and Psychotropic Substances Act, ("NDPS Act" for short) and the other case is under Section 380 Indian Penal Code in which the applicant has been convicted. Looking to all these facts, we are not inclined to grant bail to the applicant. The Bail Application is rejected.

(SANDEEP K. SHINDE, J)

(SMT. V.K. TAHILRAMANI, J)