

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.850 OF 2017

IN

CRIMINAL APPEAL NO.873 OF 2013

Aazar Azim ShaikhApplicant

V/s.

The State of MaharashtraRespondent

Mr. Kuldeep S. Patil , Advocate for Applicant.

Mr. H.J.Dedhia, APP for Respondent-State.

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

DATE : July 27, 2017.

P.C. :

Heard both sides.

2 The applicant has been convicted under Section 302 of the IPC for causing the death of Sanjay. The applicant is now seeking bail.

3 It is the prosecution case that on the night between 23.5.2010 and 24.5.2010, the applicant along with 3 other accused caused the death of Sanjay. To

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support the prosecution case, reliance is placed on P.W.5-Kishor, who is the only eye witness in this case. P.W.5-Kishor has admitted in his examination-in-chief that he did not inform anyone about the incident for about a month after the incident. In fact, his evidence shows that 15 days after the incident P.W.5-Kishor was called by the police, at that time, police made enquiry with him, however, at that time, he did not raise any suspicion against anyone nor named anyone before the police. The evidence on record shows that the statement of P.W.5-Kishor implicating the applicant was recorded by the police one month after the incident. Looking to the evidence on record, we find much merit in the submission of the learned counsel for the applicant that the applicant has been falsely implicated by P.W.5-Kishor by way of an afterthought and hence, his evidence cannot be relied upon. There is no other reliable material on record which connects the applicant to the crime.

4 In view of the above, we are inclined to grant bail to the applicant, hence, the following order:

(I) The applicant be released on bail in the sum of Rs.30,000/- with one or two sureties to make up the said amount and P.R.Bond of like amount.

(II) During the period that the applicant is on bail, he shall report to Manikpur Police Station, Dist: Palghar once in 15 days, i.e., on every alternate Monday.

5 The Application is allowed in the above terms.

(SANDEEP K. SHINDE, J) **(SMT. V.K. TAHILRAMANI, J)**