

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.981 OF 2018
IN
CRIMINAL APPEAL NO.1075 OF 2017**

**Shrimant Yogappa Chokhande
and another**

**..Applicants
(Org. Accused Nos.5 & 6)**

Versus

State of Maharashtra

..Respondent

**Mr. Ritesh Thobde a/w Mr. Sagar Tambe, Advocate for the
Applicants.**

Mrs. M. M. Deshmukh, APP for the Respondent - State.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 9th AUGUST, 2018**

P.C.

1] This is an application for suspension of sentence and grant of bail during pendency of the Appeal.

2] The Applicants alongwith original Accused Nos.2 and 3 have been convicted for the offence punishable under Section 302 of the Indian Penal Code ("IPC" for short).

3] Originally eight accused have been tried for committing the murder of deceased – Sidhanna, father of the PW-1 –

Mahasiddha.

4] It is the prosecution case that there was political rivalry between Accused No.1 – Rajkumar Birajdar and PW-1 – Mahasiddha. As such to take revenge, eight accused had come to the spot and were asking the deceased about whereabouts of PW-1 – Mahasiddha. It is the prosecution case that at that time the accused assaulted the deceased as well as PW-2 – Audhut Choughule and PW-3 – Bhagvant Choughule.

5] In view of the law laid down by the Hon'ble Apex Court in the case of Niranjan Singh and another Vs Prabhakar Rajaram Kharote and others reported in (1980) 2 SCC 559, a detailed elaboration of evidence at the stage of grant of bail should be avoided.

6] Perusal of evidence of PW-1 – Mahasiddha would prima-facie reveal that his conduct is somewhat unnatural. According to him he was at the distance of 200 to 300 ft. from the spot. It is the prosecution case that accused had to settle a score with PW-1 - Mahasiddha. If that be so, it prima-facie is difficult to believe, that

leaving PW-1 – Mahasiddha they would concentrate on the deceased. Apart from that PW-1 – Mahasiddha, who is son of the deceased has not taken any steps to save his father.

7] In so far as PW-2 – Audhut Choughule and PW-3 – Bhagvant Choughule are concerned, they attributed the role of assault to the deceased by other accused. In so far as the present Applicants are concerned, the role attributed is assaulting those witnesses.

8] The Applicants were on bail during pendency of the Appeal. It is nobody's case that they have misused the liberty, when they were enlarged on bail. Taking into consideration this aspect of the matter, we are inclined to allow the application.

9] In the result, we pass the following order :-

ORDER

- I) The Criminal Application No.981 of 2018 is allowed.

II) The order of sentence is suspended.

III) The Applicants are directed to be released on bail
on furnishing bail bonds in the sum of Rs.15,000/-
with one or more sureties in the like amount.

[SARANG V. KOTWAL, J.]

[B. R. GAVAI, J.]