

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.112 OF 2018
IN
CRIMINAL APPEAL NO.374 OF 2017

Abdul Raheman Sayyad
Versus
The State of Maharashtra

..Applicant
..Respondent

Mr. Shikur G. Kudle, Advocate for the Applicant.
Mr. H. J. Dedhia, 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 grant of bail and suspension of sentence during pendency of the Appeal.

2] Heard Mr. S. G. Kudle learned counsel appearing on behalf of the Applicant and Mr. H. J. Dedhia, learned APP for the Respondent – State.

3] 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.

4] The prosecution story is that the Applicant was suspecting character of his wife/deceased. It is the prosecution case that on account of the dispute between them, the deceased had left house of the Applicant. However, for collecting medical papers and clothes, she had gone to the house of the accused alongwith PW-2 – Shafiya Abdul Jabbar Shaikh sister-in-law of the deceased and the PW-9 – Mohammadjan Shaikh grandfather of the deceased. At that time, there was quarrel between the deceased and the Applicant. When the deceased alongwith PW-2 – Shafiya Abdul Jabbar Shaikh and PW-9 – Mohammadjan Shaikh was walking on road, in order to find the Auto-rickshaw, the Applicant came there and stabbed the deceased. The evidence of PW-2 – Shafiya Abdul Jabbar Shaikh and PW-9 – Mohammadjan Shaikh would reveal that apart from the said evidence being contradictory to each other, there are material contradictions and omissions in their evidence. PW-2 – Shafiya Abdul Jabbar Shaikh in her evidence states that when the incident took place, PW-9 – Mohammadjan Shaikh had gone to shop to purchase cigarette, whereas PW-9 – Mohammadjan Shaikh in his evidence states that he has seen incident himself. However, all narrations by him in his evidence are omissions in Police statement

under Section 161 of the Criminal Procedure Code. The Applicant has already undergone custody for a period of more than seven years. It is the case of the Applicant that the deceased had threatened him to implicate in false case. Accordingly, a complaint is made by him to the Police authorities much prior to the occurrence of incident. As such, we find that the application deserves to be allowed.

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

ORDER

- I) The Criminal Application No.112 of 2018 is allowed.
- II) The order of sentence is suspended.
- III) The Applicant is 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.

Balaji
Govindrao
Panchal

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Balaji Govindrao
Panchal
Date: 2018.08.10
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[SARANG V. KOTWAL, J.]

[B. R. GAVAI, J.]