

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

**CRIMINAL APPLICATION NO.381 OF 2018
IN
CRIMINAL APPEAL NO.24 OF 2018**

Mohammad Hanif Abdul Hamid
Qureshi @ Baba

.... Applicant

versus

The State of Maharashtra

... Respondent

.....

- Ms.Tahera A.R. Qureshi, Advocate for the Applicant.
- Mr.Ajay Patil, APP for the State/Respondent.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 05th JULY, 2018.**

P.C. :

1. This is an Application for grant of bail and suspension of sentence during the pendency of the Appeal.
2. The Appellant along with his son have been convicted for the offence punishable u/s 302 of the Indian Penal Code for having committed murder of Mohd. Abdul Mohammad Yunus Qureshi.

3. The Application is opposed by the learned APP Mr.Ajay Patil.
4. As held by the Hon'ble Supreme Court in the case of Niranjan Singh and another Vs Prabhakar Rajaram Kharote and others reported in (1980) 2 SCC 559, the detailed elaboration of evidence should be avoided at the stage of grant of bail.
5. We have scrutinized the evidence of injured witness Abdul Qadir Yunus Qureshi, the brother of the deceased. No doubt, he has stated in the evidence that the Appellant and his son were the culprits. It appears that there was a dispute between the deceased and P.W.1 Abdul Qadir Yunus Qureshi on one hand and the accused on the other hand. The dispute was on the ground that according to the deceased and P.W.1, the accused had slapped one of the employees who was working initially with deceased and P.W.1. It is pertinent to note that in paragraph No.8, contradictions in the evidence of the P.W.1 has been brought on record. The supplementary statement of P.W.1 was referred to P.W.1. The P.W.1 has denied the initial version given by him before the police that he had abused accused No.1

in filthy language and had slapped him in presence of his son. It was further denied by P.W.1 that when the accused Nadim came there, P.W.1 pushed him. P.W.1 also denied that while P.W.1 and the deceased were questioning the accused No.1, the accused Nadim came there and P.W.1 pushed him.

6. Prima facie it appears that the incident appears to be an outcome of the dispute, when the accused and the deceased went to the shop of the accused to question them about snatching their servant. In the incident, prima facie it appears that, P.W.1 had slapped the present Appellant and thereafter the accused No.2 had assaulted the deceased. Prima facie we find that the case falls u/s 304(I) and 304(II) of IPC. The Appellant has already undergone sentence of 6 years and more. In that view of the matter, we are inclined to allow the Application.

7. The order of sentence is suspended. The Appellant is directed to be released on bail on his furnishing PR Bond in the sum of Rs.10,000/- with one or more sureties in the like amount.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)