

CRIMINAL APPEAL NO.929 OF 2018

3. We have heard Ms. Ragini Ahuja, learned Counsel for Applicant and Mrs. S. V. Sonawane, learned APP for State.

4. Ms. Ahuja invited our attention to the deposition of PW 12 Imran Shaikh who was the sole eye witness examined by the prosecution who had witnessed the actual assault on the deceased. He has deposed that on 14/10/2010 at about 4.30 a.m., he saw five persons assaulting Shafiq. They were claiming that Shafiq had stolen their mobile phone. He had seen the incident of assault on Shafiq with bamboo and a spoon near the gate of Uma Caterers. Significantly, this witness has identified four persons but has not identified the present Applicant as one of the accused who had assaulted the victim. The other eye witnesses reached the spot after the assault had taken place and they have not seen the accused assaulting the deceased. All these witnesses deposed about the presence of the present Applicant at the spot. They have not witnessed the actual assault. The deceased had suffered as many as 14 injuries. One of the injuries on the head caused his death. However, since the sole eye witness to the actual assault has not identified the present Applicant, we are of the view that the Applicant can be released on bail. Hence, the order.

ORDER

- (i) Application is allowed.
- (ii) During the pendency of Criminal Appeal No.929 of 2018, the Applicant be released on bail, on his furnishing P.R. bond in the sum of Rs.15,000/- with one or two sureties in the like amount.
- (iii) The Applicant shall report to Dongri Police Station on first Sunday of every month between 10.00 a.m. to 12.00 noon until further orders of this Court.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)