

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

**CRIMINAL APPLICATION NO.1457 OF 2016
IN
CRIMINAL APPEAL NO.801 OF 2016**

Mohamed Ubedali Matiul Rehman Ansari	..Applicant
Versus	
The State of Maharashtra	..Respondent

**ALONGWITH
CRIMINAL APPEAL NO.802 OF 2016**

Sharafatali Liyakatali Shaikh	..Appellant
Versus	
The State of Maharashtra	..Respondent

**ALONGWITH
CRIMINAL APPEAL NO.1118 OF 2015**

Saiban Sagir Ahmed Shaikh and another	..Appellants
Versus	
The State of Maharashtra	..Respondent

**Ms. Pooja Sejpal i/by Nitin Sejpal, Advocate for the Applicant.
Mrs. M. M. Deshmukh, APP for the Respondent - State.**

**CORAM : B. R. GAVAI &
B. P. COLABAWALLA, JJ.
DATE : 30th JANUARY, 2018**

PC.

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

2] Learned counsel for the Applicant submits that other two co-

accused have already been released on bail by this Court by the order of this Court.

3] The Applicant alongwith other three co-accused have been convicted for the offence punishable under Section 302 r/w 34 of the Indian Penal Code.

4] As held by the Apex Court in the case of Niranjan Singh and another Vs Prabhakar Rajaram Kharote and others reported in (1980) 2 SCC 559 detailed elaboration of evidence should be avoided at the stage of grant of bail.

5] In the present case, there are two eye witnesses. PW-1 namely Mohamed Azad Nasir Ali Shaikh is the brother of the deceased. Apart from being eye witness, he is first informant. The First Information Report is lodged immediately after the incident has taken place, wherein a specific role is attributed to the Applicant of assault by Khanjar. Similarly PW-8, who is a neighbour, residing in the same area, has attributed the same role to the present Applicant.

6] Prima-facie, the CA report as well as recovery at the instance of the present Applicant is corroborated by the prosecution. In that view of the matter, we do not find that the application deserves to be allowed.

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In so far as the other two accused have been granted bail is concerned, the Court while granting the bail has found that the role of the assault was not attributed to them and the only allegations against them that they had caught hold of the deceased. In that view of the matter, the case of the said co-accused is different than the present Applicant. The Application is therefore rejected.

[B. P. COLABAWALLA, J.]

[B. R. GAVAI, J.]