

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 565 OF 2019**

Shamim Ahamed Aminuddin Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Salimuddin A. Shaikh for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 18th JUNE 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-245 of 2017 registered with the Bhiwandi City Police Station, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3 Perused the papers. According to the prosecution story, the incident took place on 18th July 2017 at about 1:00 a.m. The wife of the deceased-Abu Shahid Shaikh is an eye-witness to the alleged incident of

assault by the applicant on her husband. According to Saira Shaikh (wife of the deceased), prior to the incident, the deceased had assaulted her under the influence of alcohol and only due to the interference of the people, the deceased went away and Saira went to her house. According to Saira, at about 1:00 a.m., when she peeped from her house, she saw the applicant and her husband (deceased) going towards the Mandir. She has stated that the applicant had something in his hand, with which, he assaulted her husband on his neck and in the abdomen. The injury sustained by the deceased are consistent with the ocular evidence of Saira. A perusal of the post-mortem report shows that the deceased had sustained one incised wound on the left side of his neck and two incised injuries; one on lower zone of chest and one below the said injury, in the abdomen. The cause of death is stated to be death due to injury to vital organs. There is also an extra-judicial confession of the applicant made to Sultana Pathan, sister-in-law of the deceased. The applicant is alleged to have stated to Sultana that he had killed Abu Shahid (deceased).

4 Considering the material on record, this is not a fit case to enlarge the applicant on bail. Application is accordingly rejected.

5 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.