

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

**CRIMINAL APPLICATION NO.375 OF 2019
IN
CRIMINAL APPEAL NO.408 OF 2019**

Salman Ayub Shaikh

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.Keshav Chavan for the Applicant.

Mr. J.P. Yagnik, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
SWAPNA S. JOSHI, JJ.**

DATE : 17/06/2019.

P.C.:

. Heard. Learned counsel for the applicant-accused No.1 states that prosecution attempted to prove that accused No.1 who is husband killed his wife with assistance of accused Nos.2 and 3 in a car. Trial Court has exonerated accused nos.2 and 3.

2. Our attention is invited to evidence of Dr.Umesh Wadile (PW-21) who examined accused No.1 first. It is pointed out that this doctor found injury marks on the neck of accused No.1 which were life threatening. These injury mark or implications thereof are overlooked by the Trial Court.

3. It is submitted that PW-1, the father of deceased reached the spot first and he arrived at spot because of alleged telephone call received by him that his daughter and son-in-law were shot. Learned counsel for the

applicant states that there is no investigation about the same.

4. Learned APP submits that according to accused No.1 his hands were tied behind the driver's seat of car and his neck was also tied. There were only four occupants, two were children and last occupant was the deceased wife. He invited our attention to the circumstances looked into by trial Court in paragraph No.160 of the impugned judgment to urge that these circumstances constitute complete chain, rule out involvement of any third person and indicate accused No.1 as the only person involved in the crime. He also relies upon evidence of PW-21 to show that injury on neck of accused No.1 was found simple and doctor expressed that it could have been self inflicted.

5. Learned counsel for the applicant in brief reply reads out relevant portion of evidence of PW-21 to urge that Doctor has clarified his opinion by submitting that whether such injuries was self inflicted or not could not have been expressed authoritatively by him.

6. We have perused material. At present there is no doubt about the circumstances recorded by the trial Court in paragraph No.160 of its judgment. Perusal of evidence of Doctor (PW-21) shows that while giving history to him accused No1 told that his hands were tied behind the seat and his neck was also tied. It appears that his defence was three assailants attacked their car, injured him as also his wife. Wife passed away.

7. Admittedly, the father of deceased (PW-1) is the first person who reached the spot. His deposition shows that when he touched the chest of accused, accused blinked his eyes. He does not say that neck of accused or then his hands were tied. No such suggestion is given to him during cross examination.

8. It is to be noted that there were two more persons as accused along with the present applicant and they have been acquitted. Applicant, his deceased wife and two more children were only the persons as occupants of Indica car. Perusal of evidence of PW-21 shows that while describing injury to neck of applicant/accused, he has specifically stated that it was simple in nature. His further statement that injury mark on neck could be life threatening appears to be a general statement. In the facts of the present matter, in any case the burden was upon the applicant to explain what happened and how his wife got killed.

9. We therefore find no case made out for grant of bail. The application is rejected.

(SMT. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)