

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1315 OF 2019
IN
CRIMINAL APPEAL NO. 1327 OF 2018

Anjum Kuttubudin Makrani ... Applicant

Versus

State of Maharashtra ... Respondent

Dr. Yug M. Chaudhary a/w Adv Payoghi Roy i/by Mrs. Aisha Ansari
for the applicant.

Mrs. M.H. Mhatre, APP for the State.

CORAM : B.P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.
DATE : OCTOBER 11, 2019

P.C.:

After hearing the arguments on the application on 09/10/2019, matter came to be adjourned to 10/10/2019 to enable the learned APP to assist the court effectively. Matter could not be taken up yesterday and has been heard today.

2. Contention of the convict is injuries suffered by the deceased are not found to be sufficient in normal course to cause death. The finding of the doctor about the probable cause of death "septicemia with acute kidney injury in case of multiple stab injuries on treatment" is relied upon to urge that the

septicemia has developed during the treatment. Learned counsel states that after the attack on 21/12/2012, the victim was admitted to Municipal Hospital where his injuries were attended to. Discharge was obtained against the medical advice and victim was then shifted to other hospital where he was under the treatment till his death on 25/12/2012.

3. Contention is when the victim was admitted in other hospital and was examined, there was no indication of septicemia as deposed to by the doctor.

4. Learned APP is opposing any intervention at this stage. Though she admits that doctor has not specifically opined that the injuries were sufficient in normal course to cause death, but the injuries are grievous and one can easily decipher that same can cause death. It is further submitted that four doctors have been examined and it has been brought on record that there was no negligence in the medical treatment. As such septicemia has been caused due to stab injuries and the medical treatment or alleged negligence therein cannot be the reason for death. Explanation given by Doctor who has conducted autopsy about his opinion is relied upon for this purpose,

5. Without prejudice, learned APP states that there are six eye witnesses to support the story of the prosecution. The nature or

extent of the injuries or its possible effect are not arguments which can be looked into at this stage.

6. After hearing learned counsel, we find that the applicant was arrested on the next date i.e. on 22.12.2012 and is in jail since then. Thus he has put in about six years and ten months in prison.

7. Though there are four doctors examined by prosecution, none of the doctors has specifically deposed that the injuries sustained by the victim were sufficient in ordinary course of nature to cause death. Specific opinion of autopsy surgeon is "septicemia with acute kidney injury in case of multiple stab injuries on treatment" is the cause of death.

8. Thus the septicemia with injuries has been found to be cause of death.

9. Contention that the arguments about the nature or impact of injuries cannot be evaluated at this stage is erroneous and therefore, is rejected.

10. The appeal is not likely to be heard in near future. We therefore, find the applicant is entitled to bail.

11. Accordingly, the applicant is released on bail on the following terms and conditions :

(a) The applicant shall execute personal bond in the sum of

Rs.20,000/- before the trial court for proper behaviour and for remaining present on due dates before the Court in the present matter with two independent sureties in the like amount.

(b) He shall give address at which he shall always be available during the pendency of this appeal along with his contact numbers.

(c) Similar details in relation to his sureties shall also be furnished.

(d) He shall not in any way directly or indirectly attempt to contact or pressurize either complainant or any of the witnesses in the matter.

(e) He shall keep vakalatnama of his advocate alive and valid till the appeal is finally decided by this Court and shall not be entitled to any fresh notice at the stage of final hearing.

(f) He shall report to the Superintendent/Registrar of Sessions Court, Nashik on first working Monday after every two months as a condition of his release.

(g) His failure to observe any of the terms and conditions shall entitle the respondent State to take him in custody forthwith.

(h) Application is accordingly allowed and disposed of.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)