

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

CRIMINAL BAIL APPLICATION NO. 2503 OF 2019

Barkat Ali Rafiq Shaikh
@ Shahrukh Bangali

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Rajiv Patil i/by Mr. Hasan Patel,
Advocate for the Applicant.

Mr. V.V. Gangurde, A.P.P. for the Respondent-State.

...

CORAM : SANDEEP. K. SHINDE, J.
DATE : 03rd DECEMBER 2019.

P.C.

1. Heard learned counsel for the applicant and learned A.P.P. for the Respondent - State.

2. Applicant is seeking his enlargement on bail in Crime No. I - 165 of 2017 registered with the Tilak Nagar Police Station, for the alleged offences punishable under Sections 302, 143, 147, 149 of the Indian Penal Code, 1860 and Sections 3, 4 and 27 of Indian Arms Act and 37(1), 135 of Bombay Police Act.

3. Nilophar Shaikh (wife of deceased - Riyaz Shaikh) reported to police that on 16.02.2017 while her husband was returning home, the applicant and other four caught hold of him and facilitated Sajid - co-accused to open fire on him. She alleged, co-accused Chotu Bhangarwala inflicted knife-blows on the vital part of her husband.

4. Applicant was arrested on 26.12.2017.

5. In the statement under Section 164 of Criminal Procedure Code, 1973, complainant attributed specific role to the applicant inter-alia, he caught hold of deceased and facilitated Sajid and Chotu to kill him.

6. Learned counsel for the applicant submits in the test identification parade held on 29.01.2018. Witness could not identify the applicant.

7. Mr. Patil, learned Senior Counsel has placed

reliance on order dated 30.01.2019 in Criminal Bail Application No.1888 / 2018, releasing co-accused Vishwanath @ Jeeva Nagnath Bhosle on bail.

8. It appears, Vishwanath @ Jeeva Nagnath Bhosle who is released on the bail, was referred to as "Jivadada" in the FIR, however since no evidence was placed to justify that the 'Jivadada' is Vishwanath; he has been released on bail. So is not the case here. The complainant is a eye-witness and such other eye-witnesses attributed a specific role to the applicant who then facilitated Sajid to open fire on the deceased.

9. Thus, taking into consideration, the evidence on record and the nature of the accusation, the applicant is not entitled to claim the parity with Vishwanath @ Jeeva Nagnath Bhosale who has been released by this Court.

10. The application is therefore rejected.
11. Trial is expedited.

(*SANDEEP. K. SHINDE, J.*)