

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2895 OF 2018**

Ajij Ibrahim Sheikh .. Applicant

Vs.

The State of Maharashtra .. Respondent

...

Mr. Gladys Pereira for the Applicant.

Mr. R.M. Pethe, A.P.P. for the State.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 17TH MARCH, 2021.

P.C:-

1. This is the second Bail Application filed by the Applicant; the first being rejected by this court on 01/11/2017 (Mr. Justice A.M. Badar). By the said order, after considering the merits of the contentions advanced and also on perusal of the charge-sheet, it was specifically recorded by the court that by invoking Section 34 of the IPC, all the accused persons were held to be responsible for the joint act as if it was done by an individual and, in the present C.R., where there are four persons including the present Applicant, the Applicant Ajij and co-accused Arif

were held responsible for immobilizing whereas the other co-accused Anis Khan inflicted a blow on the chest of the deceased, which resulted into the death of the injured Rafiq. On appreciation of the evidence on merits, the Bail Application was rejected.

2. The second Application is filed again on merits which would involve appreciation of evidence once again without any change in the circumstances.

3. In my considered opinion, this course is not at all available and in response to a specific query, which was posed to learned counsel for the Applicant as to whether accused No.1 has been released on bail, learned counsel states that his Application was rejected on 17/06/2019 and she has also placed on record a copy of the said order passed by this court (Mrs. Justice Revati Mohite Dere). Perusal of the said order, however, reveals that the trial is expedited.

4. The grievance of the Applicant is that in spite of the said order being passed on 17/06/2019, the trial has not progressed further. Albeit, this can be a fresh ground on account of the liberty of the accused being at stake. In any case, there is no change in the circumstance thereby permitting the Applicant to make a second Application, the first Application being rejected on merits.

5. In such circumstances, the present Application is not liable to be entertained and is accordingly rejected.

SMT. BHARATI DANGRE, J.