

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

BAIL APPLICATION NO. 3334 OF 2019

Salim Ali Shaikh @ Madrasi ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Apeksha Vora, Advocate for the Applicant.

Ms. Veera Shinde, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 23rd JULY, 2021

PER COURT:

1. The applicant is arrested on 25th August, 2018 in connection with C.R. No. 181 of 2018 registered with Dongri Police Station, Mumbai for offence under Section 302 of Indian Penal Code (for short “IPC”).

2. The complainant is the wife of applicant. The deceased Imran is their son. The prosecution case is that the applicant is in relation with a lady. The applicant was insisting that Imran should call that lady as his mother. There is used to be quarrels between them on that issue. On 24th August, 2018, the deceased was assaulted by the applicant. On account of injuries sustained by

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Imran, he died. Statements of witnesses were recorded. Post mortem was conducted. Charge-sheet was filed.

3. The applicant preferred an application for bail before the Sessions Court. The said application was rejected by order dated 7th May, 2019. While rejecting the said application it was observed that the applicant is habitual offender. There are 26 offences registered against the applicant.

4. Learned Advocate for the applicant submitted that the applicant is in custody almost for a period of three years. There is no witness, who states that the applicant was seen assaulting the victim, which has resulted in his death. The applicant has no connection with the death of the victim. All the witnesses have stated that there was quarrel between the applicant and the victim. The victim was assaulted by fist blows and thereafter the victim left the place of incident. The subsequent assault which has resulted in death of the victim has not been witnessed by any person. None of the witness have stated that the applicant has assaulted the deceased with weapon. The applicant is on bail in all the past cases.

5. Learned APP submitted that the victim was assaulted by the applicant. There are strong circumstances which indicate

that the applicant has killed the victim. No other person was involved in the assault. There are 26 cases registered against the applicant in the past. He is habitual offender.

6. The first informant is the wife of the applicant. She has stated that the applicant is in relation with a lady namely Mumtaj on that count there used to quarrels between her son Imran and the applicant. On 24th August, 2018 at about 9.15 p.m. Imran (deceased) returned home. The applicant insisted that he should refer Mumtaj as his mother. Imran asserted that he would not call Mumtaj as his mother, as his real mother is complainant. He also questioned the applicant stating that he has troubled his mother. At that time applicant assaulted Imran. People from the area intervened. The complainant rushed to the police Station and informed the police that her husband is assaulting Imran. Subsequently, she learnt that the applicant had assaulted Imran with a sharp weapon on his neck and he is taken to hospital for treatment. Imran was declared dead. FIR was registered. The applicant was arrested. There is recovery of seizure at the instance of the applicant which was alleged used in assaulting the deceased. Statements of witnesses were recorded. All the witnesses have stated that there was quarrel between the applicant and Imran and

he was assaulted. It is true that no witness specifically states that the victim was assaulted by scissor on his neck by applicant. However, there is no reason for any other person to assault the victim. The first part of the incident clearly attributes the role of assault to the applicant. Learned APP submitted that the report of the Police which shows that 26 cases were registered against the applicant with J.J. Marg Police Station, Dongri Police Station, Nagpada Police Station, Deonar Police Station, Pydhonie Police Station etc. Thus, the applicant had repeatedly committed the offences. Considering the factual aspects, no case for grant of bail is made out.

ORDER

Bail Application No. 3334 of 2019 is rejected and stands disposed of accordingly;

(PRAKASH D. NAIK, J.)