

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1786 OF 2022  
IN  
CRIMINAL APPEAL NO.280 OF 2020**

Shaikh Amjad S/o Shaikh Ahemad  
Alias Babu,  
Age-29 yeas, Occu:Labour,  
R/o-Achanak Nagar, Peth Beed,  
Dist-Beed.

**...APPLICANT**

**VERSUS**

The State of Maharashtra

**...RESPONDENT**

...  
Mr.N.S. Ghanekar Advocate for Applicant.  
Mr.S.J. Salgare, A.P.P. for Respondent – State.  
...

**CORAM: SMT. VIBHA KANKANWADI AND  
RAJESH S. PATIL, JJ.**

**DATE : 12<sup>th</sup> AUGUST, 2022**

**ORDER :**

1. Present application has been filed for suspension of substantive sentence imposed against applicant by the learned Additional Sessions Judge, Beed in Sessions Case No.97 of 2017 on 22<sup>nd</sup> January 2020. The applicant stood convicted for the offence punishable under Section 302 of the Indian Penal Code

and Section 307 of the Indian Penal Code, for which sentence has been awarded thus:-

“(1) Accused No.1 Shaikh Amjad S/o Shaikh Ahmed alias Babu R/o Achanak Nagar, Beed, Tq. & District Beed, is hereby convicted for the offence punishable under Section 302 of the I.P.C. vide under Section 235(2) of the Cr.P.C. and sentenced to suffer life imprisonment and also to pay fine of Rs.1000/- (Rs. One Thousand only) in default to undergo R.I. for one year.

(2) Accused No.1 Shaikh Amjad S/o Shaikh Ahmed alias Babu R/o Achanak Nagar, Beed, Tq. & District Beed, is hereby convicted for the offence punishable under Section 307 of the I.P.C. vide under Section 235(2) of the Cr.P.C. and sentenced to suffer R.I. for (07) seven years and also to pay fine of Rs.500/- (Rs. Five Hundred only) in default to undergo R.I. for six months.”

2. Heard learned Advocate Mr. Ghanekar appearing for the applicant and learned APP Mr. Salgare appearing for the respondent – State.

3. Prosecution story was that three accused persons in furtherance of their common intention, had caused death of one Sayyed Jalil @ Jallu Sayyed Nasir Ahmed and attempted to cause death of one Sayyed Faim @ Pamu Sayyed Nasir Ahmed by

means of knife around 3.00 to 3.15 p.m. on 26<sup>th</sup> March 2017.

The applicant was accused No.1.

4. The evidence that has been produced on record would show that prosecution had examined in all ten witnesses to bring home the guilt of the accused. PW-5 Sayyed Faim Sayyed Nasir Ahmed is the injured eye witness, PW-1 Sayyed Akhil Ahmed Sayyed Nasir Ahmed is the informant and brother of deceased Jalil and injured Faim. There is another eye witness PW-3 Shakil Khan Sherkhan. Taking into consideration the evidence, accused No.1 – applicant has been convicted and sentenced as above and co-accused Nos.2 and 3 have been acquitted. The testimony of PW-6 Dr. Santosh Jain, who conducted the postmortem of deceased Jalil, would show that the cause of death was “Hemorrhagic shock due to internal multiple injuries”. In column No.17 in all five surface injuries were noted. Further there was fracture of left 5<sup>th</sup> rib in mid clavicular line. There was also C.L.W. noted on the left side of chest and it could be prima facie considered that death was homicidal in nature. From the testimony of the eye witness injured Faim and PW-7 Dr. Deepali Ghavane, who had examined him, it can be seen that Faim had suffered three incised wounds, first was the stab injury over

right chest near right nipple oblique in nature, it was grievous and the other two injuries were simple in nature. The knife was recovered under the memorandum given by applicant – accused No.1 in presence of PW-4 Sayyed Sherali Sayyed Nisarali. That means recovery panchnama had been proved through PW-4 Sayyed Sherali and PW-8, the investigating officer P.I. Balkrushna Pawara.

5. Under such circumstance, there appears to be prima facie evidence against the applicant – appellant, which dis-entitles him from getting suspension of the sentence.

6. Accordingly, the Application stands rejected.

**[RAJESH S. PATIL]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**