



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

**905 CRIMINAL APPLICATION NO.2499 OF 2021
IN APPEAL/526/2021**

**RAJESH @ RAJU BABU BHORE (BHANGARWALA)
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

...
Advocate for Applicant : Mr.Rajkumar B. Dhaware (appointed
Through Legal Aid Committee)
APP for Respondent no.1 : Mr.S.D.Ghayal
Advocate for Respondent no.2 : Mr. Nikhil S. Tekale (appointed)

...
**CORAM : SMT. VIBHA KANKANWADI &
ABHAY S. WAGHWASE, JJ.**

DATE : 27 OCTOBER, 2023

PER COURT :-

1. Present application has been filed for suspension of sentence. The applicant is the original accused in Sessions Case No.13 of 2017, who has been convicted for the offence punishable under Section 302 of the Indian Penal Code by the learned Additional Sessions Judge, Aurangabad on 02-12-2020.

2. Heard Mr.R.B.Dhaware, learned Advocate for the applicant, Mr.S.D.Ghayal, learned APP for respondent no.1 and Mr. Nikhil S. Tekale, learned Advocate for respondent no.2.

3. With able assistance of learned Advocates for the parties, we have gone through the record. Name of deceased is Shaikh Sadek Shaikh Sajjad and his brother Shaikh Shahed Shaikh Sajjad has lodged the FIR. Incident stated to have taken place at 08:30 p.m. on 03-10-2016 and the informant himself is the eye witness. If we consider the medical evidence, there is post mortem report, which has been proved through PW8 Dr.Niturkar, then he had noted in all five external injuries on his person and the first one is a stab wound. There were internal injuries in the nature of penetrating stab wound. The cause of death that has been given is "hemorrhagic shock due to stab injuries". As per the testimony of the informant PW1 Shaikh Shahed, the weapon that was used is knife. It appears from the record that informant Shaikh Shahed was not knowing the accused, however, Altaf had informed him the name of the applicant. No doubt it appears that Altaf has not been examined in this case but PW4 Syed Naeem has been examined, who stated that he was alongwith Shaikh Sadek and Altaf on earlier occasion when deceased had taken objection when applicant was teasing some women and there was altercation between them that is said to be the motive. The test identification parade has been held wherein it is stated that the informant has identified accused. Further there is evidence in the

nature of recovery of weapon.

4. Under the said circumstance, there is *prima facie* evidence against the applicant. He was not released on bail throughout the trial and therefore, we are of the opinion that this is not a fit case where sentence should be suspended.

5. Criminal Application stands rejected.

(ABHAY S. WAGHWASE)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

SPT