

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

**INTERIM APPLICATION NO.257 OF 2023
IN
CR.APPEAL NO.686 OF 2022**

Mohd.Sikandar Khalid Khan ... Applicant.
Versus
The State of Maharashtra ... Respondent.

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Mr Yakub Shaikh, appointed Advocate for the Applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.

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**CORAM: NITIN W. SAMBRE AND
R. N. LADDHA, JJ.**

DATE : 2 FEBRUARY, 2023.

P.C. :-

. One Alam Abdul Rehman Ansari died a homicidal death. Alam's daughter Chandani, a Dancer working in a Bar, appears to be the bone of contention, for the dispute between the Accused persons and the deceased Alam.

2. Based on the circumstantial evidence, the Sessions Court, convicted the Applicant along with Accused No.2, vide Judgment and Order dated 27th April 2018, thereby awarding life imprisonment.

3. Present Application is moved by the Accused No.1 claiming parity with Accused No.2-Mohd.Alam Abbas Khan, who was ordered to be released on 7th January, 2023.

4. A prayer for grant of relief u/s 389(1) Code of Criminal Procedure, is opposed by the learned APP, based on the testimony of PW 3 recovery from present Applicant of Razor (Vastara- and Shahabadi tile).

5. According to learned APP, there is enough circumstantial evidence, to infer prima facie involvement of the Applicant, in the offence in question.

6. We have appreciated the submissions.

7. Apart from the fact that Accused No.2 was already ordered to be released by this Court on 7th January 2023, case of the prosecution is based on circumstantial evidence.

8. On the issue of weapon used in commission of offence, which was seized vide Exhibits No.53, 54 and 35 i.e. Razor (Vastara-and Shahabadi tile), blood of 'blood group B' was detected whereas blood group of the deceased remained inconclusive. Blood group of Accused No.2 is 'B'.

9. As such, the aforesaid evidence, can not be said to be strong enough, to continue further detention of the Applicant.

10. The fact remains that the Applicant has already suffered incarceration for a period of nine and half years, as he was arrested on 13th October, 2013.

11. In the aforesaid background, the Applicant deserves relief under Section 389(1) of Cr.P.C. As such, the sentence is suspended and it is directed that :

- i) The Applicant be released on bail, on furnishing PR Bond of Rs.25,000/- with one or two local sureties in the like amount.
- ii) The Applicant shall neither influence the witnesses nor tamper with the evidence.
- iii) The Applicant shall attend the police station in first week of every English Calender month, till conclusion of the appeal.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]