

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3619 OF 2023
IN
CRIMINAL APPEAL NO. 907 OF 2018

Balaji Appa Koli ... Applicant

Versus

State of Maharashtra ... Respondent

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Ms. Vrushali Maindad alongwith Ms. Ankita Nishad, Ms. Shaheen Kapadia and Ms. Shrushti Tupe for the Applicant.
Mr. S.V. Gavand, APP for the State.

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**CORAM : NITIN W. SAMBRE &
N.R. BORKAR, JJ.**

DATED : 9 OCTOBER 2023

P.C. :-

1. In Sessions Case No.2 of 2016, applicant/accused no.3 is convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to life imprisonment vide Judgment and Order dated 26 April 2018.

2. The prayer for bail is sought on the ground that in the FIR, the applicant as well as accused No.2 Shravan were named as assailants. However, similarly placed accused No.2 Shravan is acquitted. According to the learned Counsel for the applicant, the testimony of PW-6 who claims to be an eye-witness cannot be relied on as the said witness appears

to be got up witness as his evidence is not consistent with what has been recorded in the FIR. It is further claimed that the applicant has already undergone almost eight years of imprisonment and that being so, the applicant is entitled to be released on bail.

3. Further contention is that there is no recovery from the applicant of the weapon viz., koyta or blood stained clothes.

4. While opposing the aforesaid contentions, the learned APP urged that the eye-witness has specifically named the applicant with an overt act.

5. We appreciated the submission. Merely because PW-6 Vikram has not stood by what has been stated in the FIR in relation to accused No.2 that by itself will not make the testimony of the said witness doubtful.

6. The said witness i.e. PW-6 has specifically attributed active role to the applicant in the commission of offence. The old enmity between the accused and deceased appears to be a motive for commission of offence. All the accused persons collectively with a premeditation have executed the offence in question. In view thereof, no case for grant of bail is made out. Interim Application is rejected.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)