

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 4050 OF 2022
IN
CRIMINAL APPEAL NO. 559 OF 2022**

1. Mohd. Ali Jaan Mohd. Shaikh
2. Pranay Manohar Rane @ Nana ...Applicants
(Org. Accused Nos.1 and 2)

Versus

1. The State of Maharashtra
2. Central Bureau of Investigation ...Respondents

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Mr. Nitin Sejpai a/w Akshata Desai for the Applicants.

Mr. Pradeep Gharat, Special PP a/w Ms. M. M. Deshmukh, APP for the State.

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**CORAM : NITIN W. SAMBRE &
N.R. BORKAR, JJ.
DATED : 26 OCTOBER 2023**

P.C. :-

The applicants have filed the aforesaid Criminal Appeal No. 559 of 2022 against the judgment and order dated 25 April 2022, by which, the Special Court convicted the applicants for the offences punishable under Sections 120-B, 302, 307, 326 a/w 34 of the Indian Penal Code and Section 27 of the Indian Arms Act and Section 37(1) (a) of the Maharashtra Police Act and sentenced to suffer life imprisonment.

2. The Appeal is admitted and is pending for final hearing.

3. In response to the Court's query, Mr. Sejpal, learned counsel appearing for the applicants submits that it will be difficult for the applicants to submit private paper book and Registry be directed to take steps for preparation of the paper book.

4. We accept the request of Mr. Sejpal and direct the Registry to prepare the paper book.

5. The identity of the applicants is ascertained from the TI Parade. Mr. Sejpal, the learned counsel for the applicants has invited our attention to the testimony of PW- 1 Mohamed Asif Khan, PW- 7 Gangubai Ekanth Sonawane & PW- 22 Shakil Ismail Qureshi. According to him, it is brought on record in the testimony of PW- 1 that panch witness Katchi Sadique Bacchu was known to the witness i.e., PW- 1 and as such the TI Parade vitiates.

6. Apart from above, he would invite our attention to the testimony of PW-7 Gangubai Ekanth Sonawane, who had not identified any accused persons. As far as testimony of PW- 22 Shakil Ismail Qureshi is concerned, it is claimed that the said witness has specifically stated about the Police intervention in the manner of conduct of TI Parade.

7. Learned Special PP opposed the prayer.

8. We have considered the submissions.

9. The applicants are convicted for double murder. Though PW- 7 Gangubai Ekanth Sonawane does not state about the identity of the accused persons, however, the identity of the applicant can be ascertained from the testimony of PW- 1 and PW- 22.

10. Even if, it is claimed that there is police intervention in the conduct of TI Parade or there is panch witness, who was a person acquainted with the PW- 1, that by itself, in our opinion, does not vitiate the TI Parade as the said witness was only answering the suggestions and as such it cannot be inferred at this stage that TI Parade stands vitiated as has been claimed by the applicants.

11. Apart from above, it is claimed that since the incident had occurred at a fraction of moment, it is difficult to gain identity of the accused persons in such a short period. However, the said issue can be dealt with upon complete appreciation of the evidence at the stage of final hearing.

12. In this background, we are not inclined to exercise the discretion in favour of the applicants.

13. As the applicants have undergone thirteen years of imprisonment, we have given an option to the learned counsel

Mr.Sejpal to submit private paper book so that the appeal can be heard expeditiously, however, he showed his inability.

14. For the aforesaid reasons, we do not see any reason to exercise the discretion in favour of the applicants. The Application is rejected.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)