

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

**INTERIM APPLICATION NO.81 OF 2024
IN
CRIMINAL APPEAL NO. 1437 OF 2023**

Abdul Siddhiki Mohd. Abdul Majid Kazi v/s. State Of Maharashtra AND Mrs. Nasreen Bano Sajid Ansari	.. Applicant .. Respondent .. Applicant/ Intervenor
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Mr.Majeed Memon a/w. Mr.Mateen Qureshi, Mr.Khalil Girkar &
Mr.Tapish Jain for Applicant.
Mr. S.R. Phanse a/w. Ms.Ilsa Shaikh for the Applicant/Intervenor.
Mr. J.PYagnik, APP for the Respondent-State.

**CORAM : A. S. GADKARI &
SHYAM C. CHANDAK, JJ.
DATED : 30th JANUARY, 2024.**

P.C. :

- 1) This is an application for suspension of sentence and releasing the Applicant on bail.
- 2) Heard Mr.Memon learned counsel for the Applicant, learned APP for the State and learned Advocate for the Intervenor/Victim. Perused record.
- 3) The Applicant/original accused No.3 is convicted under Section 302 r/w.34 of the I.P.C. by the trial Court.

**JYOTI
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3.1) Evidence of eyewitnesses prima facie indicates that, after the victim was assaulted with a knife by accused No.1 Abdul Majid, the father of the Applicant and the said victim fell on the ground, the Applicant rushed to the spot and assaulted the victim with fist and kick blows. There are three eyewitnesses to the crime. The witnesses state that there was initially a scuffle and in that scuffle the accused No.1 assaulted the victim with a knife.

3.2) It prima facie appears that the Applicant being the son of the original accused No.1, rushed to help of his father and when he noticed the victim has fallen down, assaulted the deceased with fist and kick blows. No other overt act, such as wielding a weapon or causing hurt by it to the deceased is attributed to the Applicant. Record indicates that during the pendency of trial the Applicant was granted pre-arrest bail by this Court by its order dated 26th April 2017. There is no report of breach of any of the conditions imposed upon the Applicant when he was on bail during the pendency of trial.

4) In view of above during the pendency of Appeal, we are inclined to suspend the substantive sentence imposed upon the Applicant and release him on bail.

4.1) Hence, the following order :

- (i) Applicant be enlarged on bail on his furnishing PR. bond in the sum of Rs.25,000/- with one or two solvent local sureties to

make up the amount.

(ii) Applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his Appeal is finally disposed off.

(iii) Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

5) At this stage learned counsel Mr.Phanse appearing for the Intervenor made a grievance that, the sister of the Applicant is 'sending messages and alleged request' to him to dissuade himself from appearing in the matter and opposing the application for bail. He produced photocopies of the screenshots of messages from his mobile phone. We have brought this fact to the notice of Mr. Majid Memon learned counsel for the Applicant.

6) In view of the fact that, the sister of the Applicant is trying to pressurise the Advocate for the Intervenor, we add the following conditions:-

(v) After his release from jail and during the pendency of the

Appeal the Applicant shall not enter the jurisdiction of Thane Police Commissionarate.

(vi) Before his actual release from jail the Applicant shall provide his prospective residential address to the Mumbra Police Station, so also, to the Trial Court.

(vii) After his release from jail and during the pendency of the Appeal the Applicant shall attend the Police Station in whose jurisdiction he intends to reside on every first Monday of the week between 10.00a.m. to 12.00 noon initially for a period of one year. Subsequently after the end of one year on every first Monday of the month between 10.00a.m. and 12.00 noon..

(viii) It is made clear that in case any such incident as noted in para 5 above is reported hereinafter i.e. contacting witnesses or Advocate for intervenor, the bail granted to the Applicant will be immediately cancelled.

7) Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A. S. GADKARI, J.)