

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

**INTERIM APPLICATION NO. 1720 OF 2023  
IN  
CRIMINAL APPEAL NO. 975 OF 2018**

Mohasin Javed Khan ...Applicant/Appellant

Versus

The State of Maharashtra And Anr. ...Respondents

....

Mr. Hrishikesh Mundargi, Advocate for the Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

Ms. Farhana Shah Advocate for Respondent No.2.

....

Digitally signed  
by ETHAPE  
DNYANESHWAR  
ASHOK  
Date:  
2024.04.27  
14:52:04 +0530

**CORAM : PRAKASH D. NAIK, &  
N. R. BORKAR, JJ.**

**DATE : 26<sup>th</sup> APRIL 2024**

**P.C.:**

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal No. 975 of 2018.
2. The applicant has been convicted for the offence under Section 302 read with 34 of the Indian Penal Code, 1860 and sentenced to suffer imprisonment for life vide judgment and order dated 3<sup>rd</sup> July 2018 passed by learned Additional Sessions Judge-4, Nashik in Sessions Case No. 210 of 2016.

3. The case of the prosecution is that, the accused Hujer Raffique Shaikh, Mukthar @ Raj Jakir Shaikh, Mohasin Javed Khan and Shahabaj Majid Pathan followed deceased and caught hold of him. Mohasin Javed Khan (Applicant) and Mukthar @ Raj Jakir Shaikh caught hold of the hands of the victim. The accused Hujer Raffique Shaikh took out chopper and assaulted the victim.

4. Role attributed to the applicant is that, he caught the hands of the victim at the time of assault. Similar role was attributed to the co-accused Mukthar @ Raj Jakir Khan. He had preferred application for suspension of sentence before this Court viz. Criminal Application No.1484 of 2018. The said application was rejected vide order dated 1<sup>st</sup> November 2023. The order was challenged before the Apex Court by preferring Special Leave to Appeal (Cri.) No.15577 of 2023. Vide order dated 9<sup>th</sup> February 2024, the Hon'ble Supreme Court allowed the Special Leave Petition and directed that the said petitioner be released on bail. Thus, the co-accused Mukthar @ Raj Jakir Khan is admitted to bail. While granting bail it was observed that, taking into consideration the nature of evidence available against the petitioner/accused and that the role of actual assault is not attributed to him, the petition was allowed.

5. The application for suspension of sentence preferred by the applicant before this Court was allowed to be withdrawn by this Court vide order dated 8<sup>th</sup> February 2021.

6. Learned APP and learned Advocate for respondent No.2 opposed the application for bail. It is submitted that, the previous application was rejected by this Court. The applicant has played vital role in the crime. He was attributed overt act of holding hand of the deceased which facilitate the co-accused to assault him with weapon

7. Learned Advocate for the applicant submitted that, the applicant is entitled for bail on the ground of parity. He has undergone actual imprisonment of six and half years. Role attributed to the applicant and accused Mukthar @ Raj Jakir Khan is similar. Another accused Shahabaj Majid Pathan, who was attributed role of preventing bystanders and other eye witness from intervening in the assault, has been granted bail by the Hon'ble Supreme Court vide order dated 3<sup>rd</sup> March 2023.

8. Undisputedly, the role attributed to the applicant is that, he held hand of the victim. Similar role was attributed to Mukthar @ Raj Jakir Khan. He has been granted bail by the Hon'ble Supreme Court vide order dated 9<sup>th</sup> February 2024. The case of the

Applicant is similar to Mukthar @ Raj Khan and the applicant is entitled for bail on the ground of parity.

**ORDER**

- (i) Interim Application No.1720 of 2023 is allowed;
- (ii) During the pendency of Criminal Appeal No.975 of 2018, the sentence of imprisonment imposed vide Judgment and Order dated 3<sup>rd</sup> July 2018 passed by learned Additional Sessions Judge-4, Nashik in Sessions Case No. 210 of 2016 is suspended and the applicant is directed to be released on bail on executing PR. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned police station once in three months on first Saturday of the month between 11:00 am to 01:00 pm till further orders;
- (iv) Interim Application stands disposed off.

**(N. R. BORKAR, J.)**

**(PRAKASH D. NAIK, J.)**