

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3782 OF 2024
IN
CRIMINAL APPEAL NO.1030 OF 2024

Tejas Hanumant Gurav

Age : 35 Years, Occupation : Service,

Residing at : Tupgaon, Post-Chowk,

Taluka : Khalapur, District : Raigad.

...Applicant

Versus

1. **The State of Maharashtra**

2. **Chaya Manohar Kumbhar**

Age : 52 Years, Occupation : Nil,

3. **Darshan Manohar Kumbhar**

Age : 29 Years, Occupation : Nil,

4. **Aaditi Manohar Kumbhar**

Age : 27 Years, Occupation : Nil,

Respondent Nos.2 to 4 are residing:-

At : Tupgaon, Post-Chowk, Taluka:

Khalapur, District : Raigad – 410206.

...Respondents

Mr.Shekhar Ingawale–Advocate for Applicant.

Smt.M.M.Deshmukh–APP for Respondent No.1–State.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 21st JANUARY 2025

P.C. :

1. This is an Application for bail pending Appeal.

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2. The Applicant was the sole accused in Sessions Case No.420 of 2019 before the Additional Sessions Judge, Panvel-Raigad. Learned Judge vide his judgment and order dated 30th August 2024, convicted the Applicant for commission of the offence punishable under Section 302 of the Indian Penal Code, 1860 (“**IPC**”) and sentenced him to suffer imprisonment for life and to pay fine of Rs.20,000/- (Rupees Twenty Thousand) and in default, to suffer simple imprisonment for two years.

3. The Applicant is arrested on 28th June 2018 and since then, he is in the custody. The prosecution case is, that the incident occurred on 3rd June 2018. The deceased Manohar Kumbhar was working on a farmhouse situated at village Tupgaon, Taluka : Khalapur, District : Raigad. At about 8.30 p.m., on 3rd June 2018, one Reena Gupta, who was working in the same farmhouse, heard shouts from Manohar. She ran there. She saw that one unknown person was holding Manohar and was assaulting him with a sharp weapon on his chest, stomach and neck. Manohar collapsed on the ground. She ran towards Tupgaon village and informed others. The FIR was lodged and investigation was conducted.

4. Learned counsel for the Applicant submitted, that the FIR was lodged against an unknown person. There is only one eye-witness PW No.1–Reena Gupta. She did not know the assailant. She was made to identify the Applicant who was the suspect in the Test Identification Parade held on 2nd July 2018. The evidence shows that the photographs of the Applicant were published in widely circulated papers and the evidence shows, that the photographs were actually seen by the said witness – Reena Gupta (PW No.1) before the Test Identification Parade was held and therefore, her identification is fully vitiated. He submitted, that apart from the evidence of the eye-witness, there is no other evidence against the Applicant.

5. Learned APP, on the other hand, submitted that the Test Identification Parade is an important piece of evidence. There is no dispute, that PW No.1 identified the Applicant in the Test Identification Parade. She also identified the Applicant before the Court which is a strong circumstance against the Applicant.

6. We have considered these submissions. The deceased had suffered multiple stab injuries on the chest and abdomen. The cause of death was stab injury on the chest and

also intestinal perforation. This incident was seen by PW No.1 but she was not knowing the assailant. Her evidence shows, that she identified the Applicant in the Test Identification Parade and also in the Court. However, the statement of another witness PW No.3–Mahesh Parit is important. He was the owner of the farmhouse. In paragraph No.6, he has deposed, that whenever the Police used to call PW No.1–Reena Gupta, he used to accompany her to the Police Station and that, he himself had shown this newspaper to the PW No.1. This clearly means, that there is a strong possibility that PW No.1 had seen the photograph of the Applicant on 1st July 2018 and the Test Identification Parade was held on 2nd July 2018. Therefore, the identification of the Applicant in the Test Identification Parade loses its importance. All these issues will have to be decided at the final hearing stage. However, the Applicant is in the custody since 28th June 2018 and there appears to be some strong points in his favour. In this view of the matter, the Applicant deserves to be released on bail during pendency of the Appeal. Hence, order:-

O R D E R

- (i) During pendency and final disposal of the

Applicant's Criminal Appeal No.1030 of 2024, the Applicant-Tejas is directed to be released on bail, on executing a personal bond in the sum of Rs.30,000/- (Rupees Thirty Thousand) with one surety in the like amount.

7. In view of that, the Interim Application stands disposed of.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)