

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

**INTERIM APPLICATION NO.4035 OF 2024
IN
CRIMINAL APPEAL NO.1097 OF 2024**

Taufik Abdul Hussain KhanApplicant
Versus
The State of MaharashtraRespondent

Ms. Nasreen Ayubi, Advocate for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.

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

DATE : 14th JANUARY, 2025

P.C. :

1. This is an Application for bail pending Appeal.
2. The Applicant was an accused in Sessions Case No.235/2016 before the Additional Sessions Judge, Dindoshi, Goregaon, Mumbai. The learned Judge, vide his judgment and order dated 10.5.2024, convicted the Applicant for commission of the offence punishable under Section 302 of IPC and sentenced him to suffer life imprisonment and to pay a fine of

Rs.10,000/- and in default to suffer RI for six months.

3. The prosecution case is that on 3.2.2016 at about 8 to 9.00 p.m., the Applicant committed murder of one Ramu Dhotre by assaulting him with a knife.

4. Heard Ms. Nasreen Ayubi, learned counsel for the Applicant and Mr. S.R. Agarkar, learned APP for the Respondent-State.

5. Learned counsel for the Applicant submitted that there are two eye witnesses to the incident, but their evidence is not reliable. They were not knowing the Applicant. The CCTV footage shows that there was darkness at the spot. Therefore there is serious dispute about the identity of the assailants. She submitted that the Applicant is in custody since 4.2.2016. She submitted that the prosecution has not brought out the motive for commission of this offence.

6. Learned APP opposed these submissions and relied on the evidence of two eye witnesses as well as on the evidence of test identification parade.

7. We have considered these submissions. The prosecution case is narrated by PW-1 Yellappa Dhotre, PW-3 Nahar Singh Dasaana and PW-7 Prasad Ayare. All these witnesses say that at around that time two persons came at the spot and the present Applicant took out a knife and stabbed on the neck of the deceased Ramu. When PW-1 Yellappa Dhotre tried to intervene he was also assaulted. He identified the Applicant in the Court.

8. Similar is the evidence of PW-3 Nahar Singh Dasaana and PW-7 Prasad Ayare. PW-1 and PW-7 were asked to identify the Applicant in the test identification parade.

9. PW-10 Rahul Suryawanshi, the Naib Tahasildar, Thane has conducted the test identification parade in which both these witnesses have identified the Applicant.

10. All these witnesses had identified the Applicant in the Court as well. The postmortem notes show that the deceased had suffered one CLW of the size 4 cm x 1 cm x 1 cm over left neck region and the other CLW of the size 5 cm x .5

cm x 1 cm on left parietal region. Thus, the medical evidence also supports the version of the eye witnesses.

11. There is sufficient evidence against the present Applicant. No case for grant of bail pending the Appeal is made out. The Application is rejected.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)