

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 5179 OF 2024
IN
CRIMINAL APPEAL NO. 1318 OF 2024

Salim Ali Ibrahim Shaikh alias Madrasi,
Aged 49 years, Indian Inhabitant, R/a Vakil
Buklding, 1st Floor/Mezzanine,
Room No. 12, Navroji Hill Road,
Lane No. 21, Dongri Market, Mumbai
(At present is in Arthur Road Central
Prison)

...Applicant

~ versus ~

The State of Maharashtra,
(At the instance of Dongri Police Station
vide C.R. No. 181 OF 2018)

...Respondent

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SANJAY
MORMARE

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APPEARANCES

For the Applicant

Ms Anjali Patil, with Tohid Shaikh.

For the Respondent-State

Ms Priyanka S Rane., APP.

**CORAM : SUMAN SHYAM &
SHYAM C. CHANDAK, JJ**

DATED : 31ST JULY 2025.

ORDER (Per Suman Shyam, J):-

1. Heard Ms Anjali Patil along with Mr Tohid Shaikh, learned counsel appearing for the Applicant. Also heard Ms Priyanka S Rane, learned APP appearing for the Respondent-State.

2. By the Judgment dated 25th November 2024, passed in Sessions Case No. 010728/2019, (Old C.C. No. 1171/PW/2018), Greater Bombay, the sole Applicant herein was convicted under Section 302 of the Indian Penal Code (“**IPC**”) for committing murder of his son. He was sentenced to undergo rigorous imprisonment for life and also to pay fine of Rs. 10,000/-. The Applicant was, however, acquitted in respect of charge for offence punishable under Section 37(1) r/w 135 of Bombay Police Act, 1951.

3. The prosecution case, in a nut-shell, is that on 24th August 2018, the mother of the deceased, viz, Smt Parveen Salim Shaikh (PW-8), who is also the wife of the Accused, had lodged an FIR in the Dongri Police Station, Mumbai reporting the commission of offence punishable under Section 302 of the IPC. An offence was, accordingly, registered as C.R. No. 181 of 2018. On completion of trial, the Applicant was convicted under Section 302 of the IPC and sentenced as aforesaid. He is in jail since 24th August 2018. By filing the instant Interim Application, a prayer has been made for suspension of the jail sentence of the Applicant and for his release on bail.

4. Ms Patil submits that there is evidence to show that an incident of quarrel had taken place between the deceased and the Accused/Applicant just before the incident. There is also evidence to show that the deceased was involved in drug addiction, thus enraging his father. Contending that the incident took place in a heat of passion and without any premeditation, Ms Patil submits that this is a case of conversion of the conviction and sentence of the Applicant to a lesser sentence.

5. Ms. Priyanka Rane, learned APP, on the other hand, has submitted that from the postmortem report, it is clearly established that the deceased had died a homicidal death due to stab injury caused by a sharp weapon. She further submits that since the charge brought against the Accused was established by cogent evidence, the present is not a fit case to suspend the jail sentence of the Applicant and to release him on bail.

6. From the evidence of PW-8, it clearly appears that a quarrel took place between the deceased and the Accused on a day of the incident in between 9.00 pm to 9.30 pm which was minutes before the occurrence. PW-1, who is a resident of the same locality, has also deposed that there was a fight between the Accused and his

son at about 9.00 pm on 24th August 2024. From the testimony of the Police Inspector, PW-9, it further appears that there was a quarrel between the Accused and the deceased on account of the fact that the deceased Imran had refused to call the second wife of the Applicant as his mother.

7. From the testimony of the Doctor (PW-10), who had conducted the postmortem examination on the dead-body, it appears that there were multiple “self-implicated injuries” on the body of the deceased. However, the death took place due to Injury No. 1, which is a stab injury caused by the scissor.

8. From the facts and circumstances of the case as well as the evidence available on record it *prima facie* appears that there was a on-going quarrel between the accused and his son, i.e., the deceased due to the latters refusal to address his second wife as mother. There is a possibility that the quarrel got further triggered minutes before the incident due to the attitude of the deceased. In the absence of high degree of passion, it would be difficult to perceive that a father would take the extreme step of causing death to his own son. Moreover, there is evidence to *prima facie* suggest that the deceased was addicted to drugs.

9. Since the death was caused due to a single stab injury and considering the circumstances of the case as well as the relationship between the Accused and the deceased, we are of the opinion that possibility of conversion of the sentence of the accused to one related to a lesser offence cannot be ruled out in this case. Therefore, since the Applicant/Accused is in jail since 24th August 2018, we find force in the submissions of the Applicant's counsel that the present is a fit case for releasing the Applicant/Accused on bail. As such, we pass the following order:

ORDER

- (a) The Applicant, Salim Ali Ibrahim Shaikh alias Madrasi, shall be forthwith released on bail in connection with C.R. No. 181 of 2018 (Sessions Case No. 010728/2019 (Old C.C. No. 1171/PW/2018)), registered with the Dongri Police Station, on his executing P .R. bond of a sum of Rs. 30,000/- with one or two sureties in like amount to the satisfaction of the learned Trial Court.
- (b) The Applicant shall maintain good behaviour and shall not indulge in any anti social activity while on bail.

(c) The Applicant shall keep the surety alive for the purpose of this bail.

(d) The Applicant shall appear before the concerned Police Station on the first Saturday of every month between 1:00 p.m. to 4:00 p.m. and shall not leave area of Mumbai District without prior permission of the learned Trial Court.

10. It is made clear that violation of the above conditions shall be viewed seriously and can lead to cancellation of the bail.

11. The observations made herein-above are *prima-facie* in nature and have been made for the limited purpose of disposing of the bail application.

12. The Interim Application is allowed in the aforesaid terms.

13. The Registry is directed to forthwith communicate this order to the concerned Jail Authorities at Arthur Road Central Prison, Mumbai.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)