

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1254 OF 2015

**AYABA@NADIM AHAMAD KHALIL AHAMAD)
MOMIN)...APPLICANT**

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.A.M.Saraogi, Advocate for the Appellant.

Mrs.S.Gajare-Dhumal, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 21st JULY 2015.

P.C. :

1 Heard Mr.A.M.Saraogi, the learned counsel for the applicant. Heard Mrs.S.Gajare-Dhumal, the learned APP for the State.

2 The applicant had filed two applications for bail previously, but both these applications were withdrawn by him. When the last one was withdrawn, the learned counsel for the applicant had submitted that the applicant be given liberty to apply afresh for bail, in the event of the trial not commencing within a reasonable time. Now this application has been made on the ground that though the applicant is in custody since June 2013, trial has not yet commenced, and even a Charge has not yet been framed.

3 That, a Charge has not yet been framed, is correct and is confirmed by the learned APP. I have, therefore, considered the matter on merits, keeping in mind the pretrial detention already undergone by the applicant.

4 I find that the First Informant and victim Yogendra Paneru was robbed by two persons by using a knife. The applicant is said to be one of those two. The applicant is alleged to be the

one who had assaulted the said Yogendra by a knife. Yogendra subsequently succumbed to injuries sustained by him. The case was initially registered only in respect of offences punishable under Section 394 of the IPC and Section 397 of the IPC, but after the death of Yogendra it was made a case of murder, by adding the offence punishable under Section 302 of the IPC.

5 I have examined the nature of the injury caused to the said Yogendra, as is reflected from the notes of the postmortem examination.

6 The applicant has been identified as one of the culprits and as the assailant by two witnesses. Additionally, the weapon of assault is said to have been recovered at his instance.

7 There exists a *prima facie* case against the applicant.

8 Considering all the relevant aspects of the matter, I am not inclined to release the applicant on bail.

9 It would, however, be proper to direct the trial to be expeditiously held.

10 The application is rejected.

11 The trial court shall expedite the trial and endeavour to complete it within a period of six months from the date of receipt of this order.

(ABHAY M. THIPSAY, J.)