

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Cr. Application No 1343 of 2015
IN
Cr. Appeal No 964 of 2015

RANJIT GANESH CHAVHAN ...Applicant.
V/S
THE STATE OF MAHARASHTRA ...Respondent.

....
Mr. Anand Pande i/b. K.M. Mhatre, Advocate for the Applicant.
Mrs. Anamika Malhotra, APP, for the State.
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CORAM : A. R. JOSHI, J.

DATE : 28th OCTOBER, 2015

P.C.

1. Heard learned Counsel for the applicant on this application for bail during pendency of appeal. Appeal is already admitted vide order dated 29.9.2015.

2. The applicant is convicted for the offence punishable under Section 304(Part I) of IPC and sentenced to suffer RI for 10 years and to pay fine of Rs.10,000/-. He is also convicted for the offence punishable under Section 502 of IPC and sentenced to suffer RI for three years and to pay fine of Rs.1000/-.

3. The reasoning given by the trial Court and the evidence of the prosecution witnesses is gone through. Apparently it is a case of assault on the victim, the second husband of the first informant lady. Said assault was by the present applicant/appellant by means of knife which he carried with him and went to the house of the victim. He assaulted the victim on backside of his neck. It was severely bleeding injury. Apparently the applicant was under the influence of alcohol and he fell in the same room. The first informant, the wife of the victim, latched the door of the house from outside keeping the applicant in the room in rather intoxicated condition and she took her injured husband to the hospital for medical treatment. The victim succumbed to the injuries after two days. After intimation was given to the police, the police arrived at the spot and apprehended the applicant. They also searched the premises and found blood on the ground and also seized the knife. Apparently the trial Court brought down the charge of murder to the charge of culpable homicide not amounting to murder. Apparently the trial Court considered that the facts of the case were falling under exception 4 to Section 300 of IPC. But inspite of this as mentioned in para-36 of the judgment, in

the earlier para the trial Court had specifically averred that it is crystal clear that the applicant was armed with knife and was prepared and had injured the victim. Of course, this concept of whether the offence is punishable under Section 302 or under Section 304(part I) of IPC will be appropriately dealt with at the time of final adjudication of the appeal.

4. Considering the *prima facie* material and establishment of the charge against the applicant, in the opinion of this Court this is not a case in which during pendency of the appeal the applicant can be released on bail though it is submitted that the applicant is in custody since about 9.7.2013. As such, present application is dismissed and accordingly disposed of.

(A. R. JOSHI, J.)