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

**CRIMINAL APPLICATION NO. 1673 OF 2014
IN
CRIMINAL APPEAL NO. 976 OF 2014**

Sushil Tanaji Thite

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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Appearances:-

<i>Mr. Nitin Sejjal & Pooja Bhojne</i>	<i>Advocate for the Applicant</i>
<i>Smt. V.R. Bhonsale</i>	<i>APP for the State</i>

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**CORAM : SMT. V.K. TAHILRAMANI &
SMT. I. K. JAIN, JJ**

DATE : JANUARY 27, 2015.

P.C.:

1. The applicant has been convicted under Section 304 (I) of IPC and sentenced to life imprisonment and fine of Rs. 20,000/-. The applicant is now seeking bail.

2. The incident occurred on 13.5.2013. At about 10.30 p.m., deceased Sunil was chatting with first informant

Mahesh (PW 1) near the house of Mahesh. Thereafter, Sunil went to his house to have dinner. Thereafter, the applicant who was known to the informant came in front of the house of the informant and told the informant that his mobile handset was stolen. The applicant informed that he suspected that the mobile handset was stolen by deceased Sunil. He then asked Mahesh the address of Sunil. Mahesh contacted Sunil on mobile phone and asked him whether he had taken the mobile handset of the applicant. Sunil replied in the negative and told that he would be coming to the house of the informant. Sunil came to the house of the informant within five minutes. An altercation took place between the applicant and deceased Sunil on account of mobile handset. The applicant pushed Sunil. Sunil asked the applicant why the applicant is pushing him when he had not taken his mobile handset. The applicant then told Sunil that he would show him what he can do and went away from the spot. Mahesh and Sunil were standing at the spot. After about five minutes, the applicant came near Mahesh and

Sunil. The applicant had worn blue T-shirt and yellowish half pant. He has held his right hand behind his back. The applicant caught hold of the collar of shirt of Sunil by his left hand and started abusing him. The applicant was holding a knife having a blade of six inches in length. Sunil then ran away from the spot. The applicant followed him. Sunil hid behind an auto rickshaw. The applicant was searching for Sunil. When Sunil started coming towards the informant from the other side of auto rickshaw, the applicant came in his way and started hurling abuses at him. The applicant brandished the knife and threatened the persons who were present at the spot. Due to this, nobody dared to intervene. The applicant then pierced the knife in the chest of Sunil. Mahesh ran towards Sunil and caught hold of him. At that time, the applicant again brandished the knife in front of all the people present and gave threats to them. The applicant then ran away from the spot. Sunil was taken to hospital where he was declared dead.

3. The present case does not fall under any of the exceptions to Section 300 of IPC. It cannot be said to be a case of quarrel or grave and sudden provocation or falling under any other exception to Section 300 of IPC. The applicant had chosen vital part of the body i.e chest on which he gave blow with a deadly weapon. The applicant was not on bail during the trial. Looking to the facts and circumstances of this case, we do not think that this is a fit case to grant bail to the applicant. The application is rejected, however, hearing of the appeal is expedited. As soon as the paper book is ready, liberty is granted to the applicant to prefer an application for fixing the date of hearing of the appeal.

[SMT. I. K. JAIN, J]

[SMT. V.K. TAHILRAMANI, J]

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