

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.6153 OF 2016
IN
CRIMINAL APPEAL NO. 671 OF 2016**

Sandip Sarjerao Vaidya

.. Applicant

Versus

The State of Maharashtra

.. Respondents

Mr. Joydeep Chatterji, Advocate for the applicant
Mr.B.V.Virdhe, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.
DATED : 14.12.2016**

P.C. :-

1. Applicant has moved this application seeking bail on the grounds set out in detailed in the application.

2. The applicant was tried for committing the offence under Section 302,341 and 504 of the Indian Penal Code. On conclusion of the trial the learned Sessions Judge, Jalna has convicted the applicant/appellant under Section 304 Part-II of the Indian Penal Code and sentenced to suffer R.I. for seven years and fine of Rs.10,000/-. Being aggrieved by the judgment and order passed by the Sessions Judge, Jalna, the

applicant/appellant has preferred appeal before this Court.

3. Mr. Joydeep Chatterji, Advocate for the applicant strenuously contended that the conviction of the appellant under Section 302 of the Indian Penal Code is not sustainable. By referring the evidence of crucial witness such as eye witness, Medical officer the learned counsel for the applicant contended that the incident in question was not premeditated. As per the case of the prosecution the deceased alongwith two associates i.e. eye witnesses in the case entered into the field of the accused wherein the accused has sown Bajra crop. The accused has objected the act of deceased and his two associates to enter into his field with jeep. On that account the quarrel took place between accused and deceased in which a single blow was alleged to be dealt by accused and that to on grave provocation made by the deceased to an accused. By referring the evidence on record the learned counsel strenuously contended that by no stretch of imagination the inference can be drawn that the accused has acted with intension to cause the murder of deceased. He further submits that there is a arguable case to be considered in the appeal. He further submits that during the trial the applicant was on bail. He urged to release the applicant on bail.

4. On the other hand learned APP has opposed the application with the contention that there is a strong evidence to establish the complicity of accused in commission of offence. It is pointed out that the accused dealt a blow of knife on the vital part of the body of the deceased which resulted into causing injury to the lung. The blow was so forceful that it has caused fracture of 4th rib of left side and caused injury to lung. He therefore urged not to entertain the request of the applicant to enlarge the applicant on bail.

5. Having appreciated the submissions advanced in the light of facts of the case the evidence on record and the nature of injury caused, I am of the view that no case is made out to entertain the request to release the applicant on bail. There are two eye witnesses to incident, who have given the detailed account of manner in which the incident was occurred and assault was made. Although there was a single blow dealt by the accused but the blow was dealt with great force. It has resulted into cavity deep injury to the vital part of the body. As per Postmortem report and testimony of the Autopsy Surgeon the stab injury over left side of chest, measuring 4.5 cm x 2 cm x cavity deep found to be caused with sharp edged weapon as that of knife. On internal examination it was

noticed that fracture of 4th rib of left side at level of costal cartilage. Stab injury extending upto heart over anterior interventricular septum at uppermost part of size 1.5 cm x 0.5 cm x tissue deep as well as causing injury to the lung was detected. The weapon used in the commission of the offence was recovered at the incident of accuse. In this view I am of the view that the applicant not deserves to be released on bail. The possibility the applicant may abscond cannot be ruled out under the facts and circumstances of the case. I am therefore not inclined to entertain the application. However looking to the facts and circumstances of the case the hearing of the appeal can be expedited. Hence the following order.

ORDER

Application is rejected. Hearing of the appeal is expedited. R & P be sent back to the trial court with direction to prepare the paper book as early as possible and remit back R & P within six months. Liberty to move the Court to list the appeal after R. & P. received.

[V.L.ACHLIYA, J.]