

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

CRIMINAL BAIL APPLICATION NO. 1841 OF 2015

Bandu @ Bandya @ Rashid Pathan ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. S.G.Rajput for the Applicant

Mrs. R.M.Gadhvi, APP for the Respondent-State.

Mr.Manohar Patil, P.I. from Wadivale Police station, Nashik Rural,
present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : JANUARY 29, 2016.

P.C.

1. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case No.305 of 2014 pending before the Sessions Court Nashik, for an offence under Section 302 of the Indian Penal Code.

2. The case of the prosecution in brief is that during the intervening night of 17.6.2014 and 18.6.2014, the applicant along with co-accused had inflicted serious injuries on one Kalpesh Dhongade. Said Kalpesh Dhongade was admitted in the hospital and

he expired on 26.6.2014. Pursuant to the complaint lodged by Chandrabhan Nathe, initially crime was registered under section 307 of IPC. Subsequent to the death of the injured Section 302 came to be added.

3. The applicant was arrested on 18.6.2014. The crime was investigated, and upon completion of investigation chargesheet was filed. The offence being Sessions triable, the case was committed to the Court of Sessions. The application for bail filed by the applicant before the Addl. Sessions Judge, Nashik, was dismissed vide order dated 3.6.2014. Hence the present application.

4. The learned Counsel for the applicant has submitted that there is no prima facie material to show the involvement of the applicant in commission of the said crime. He has further submitted that the co-accused is already released on bail by the Sessions Court and there being no material to show the involvement of the applicant in commission of the said crime, the applicant is entitled for bail.

5. The learned APP submits that there is prima facie material to link the applicant with the said crime. The offence is of serious nature and hence applicant is not entitled for bail.

6. I have perused the records and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State. The record prima facie reveals that there was a dispute between the applicant and the deceased over purchase of one vehicle. The FIR further reveals that on 17.6.2015 at about 11 p.m. the applicant and the deceased were together and they were quarreling over the said issue. The statement of the witness Yashwant Nathe also prima facie reveals that the applicant and the deceased were quarreling with each other on 17.6.2014 during late night hours. The witness had stated that he had brought the deceased back to the village and while he was taking the deceased back to the village, the applicant herein was calling him constantly and was threatening to kill him. The material on record indicates that on 18.6.2014 said Kalpesh was found in injured condition on the road side. The statement of the complainant also prima facie reveals that after he was shifted in the hospital, said Kalpesh had written on a piece of paper that the applicant herein was responsible for his death.

7. The post mortem report indicates that there was a slit injury on

the throat and that said Kalpesh had expired as a result of Septicaemia consequent to the throat injury.

8. The aforesaid material, in my considered view indicates the involvement of the applicant in commission of the crime. Considering that the gravity of the offence and that the crime is of serious nature, in my considered view, the applicant is not entitled for bail. Hence the bail application is dismissed.

(ANUJA PRABHUDESSAI, J.)