

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 205 OF 2017

Mr. Kamalkant Maheshchand. Saini ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Ms. Daksha M. Shah, Advocate for the applicant.
Mr. M. G. Patil, APP, for the State.
Mr. V. L. Kadam, API, Kalwa Police Station present.

CORAM: SMT. SADHANA S. JADHAV, J.
DATE : 27th February, 2017.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 18.3.2016 in Crime No.93 of 2016 registered at Kalwa Police Station for the offences punishable under Section 307 of the Indian Penal Code and under Section 3 read with Section 25 of the Indian Arms Act.

2. It is the case of the prosecution that on 18.3.2016, at about 8.45 a.m., Kalwa Police Station received an information that there has been a case of firing at Mahatma Phule Nagar, Kalwa. The police immediately went to the spot and had noticed that Ms. Mamta had sustained injuries from a country-made pistol. The police had been to the hospital. The statement of one Ms. Babita Maurya was recorded.

3. She lodged a report at the police station alleging therein that her family had been to village Tikuli at Rajasthan to attend the marriage. There the present applicant and her sister Mamta had got acquainted with each other. They used to talk to each other over the cellphone. He had also visited their house. That a week prior to 18.3.2016, the applicant had revisited the house of the complainant. Her younger brother had noticed that the applicant was carrying a country-made pistol in his bag. On 17.3.2016, she was talking to the present applicant. He was insisting upon her to join him and leave for Rajasthan. She had denied to accompany him to Rajasthan. There was a verbal altercation. Mamta had told the present applicant that she is not in love with him and she loves another person. Being annoyed with the said decision, the present applicant had shot at Mamta with a country-made pistol which he was carrying.

4. Mamta was taken to the hospital. The injury certificate indicates that there was a entry wound of bullet with tattooing of surrounding skin right submonaibulor area of neck. That the said injury was described as dangerous and would be sufficient in ordinary course of nature to cause death.

5. The learned counsel for the applicant submits that the applicant was in love with the victim girl. They wanted to get married. Upon

learning that she is not interested in marrying with the applicant had shot at her. It was a grave and sudden provocation and therefore, according to the learned counsel for the applicant, the applicant deserves to be enlarged on bail.

5. Upon perusal of the papers of investigation, it is clear that the applicant had attempted to murder the victim. He was carryout a country-made pistol along with him when he visited her house on the pretext of appearing for examination. It cannot be a case of grave and sudden provocation. The applicant had pre-meditated the act. He was carrying a pistol along with him to the house of the victim. This itself shows that he had an intention to cause homicidal death of the victim in the eventuality that she would refuse to marry him. It is in these circumstances that the applicant does not deserve to be enlarged on bail. Hence, the application stands rejected.

(SMT. SADHANA S.JADHAV, J.)