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

**CRIMINAL BAIL APPLICATION NO.337 OF 2017**

Abdul Majid Kazi @Ganna

...Applicant

Versus

1. The State of Maharashtra

2. Sajid Saeed Thankar

...Respondents

Mr.Rajiv Patil, Senior Counsel a/w Ms.Priyanka Thakur, for the Applicant.

Ms.Veera Shinde, A.P.P for the Respondent-State.

Mr.S.R.Phanase, for the Original Complainant/Intervener.

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 6<sup>th</sup> SEPTEMBER, 2017**

**P.C. :**

1. Heard learned counsel for the parties.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-41 of 2016 registered with the Mumbra Police Station, Thane, for the alleged offences punishable under Sections 302, 504, 506(2) r/w 34 of the Indian Penal Code and under Sections 37(1) (3) r/w 135 of the Maharashtra Police Act.

3. Learned Senior Counsel for the applicant submitted that although, the complainant – Sajid Saeed Thankar, an eye witness has alleged that the applicant assaulted deceased – Sajid Ansari, with a stump and later with a sharp edged weapon, the same is not supported by the other 5 eye-witnesses. He submitted that the other 5 eye-witnesses have stated that the applicant assaulted Sajid Ansari only with a stump. He submitted that, whereas, the PM Report shows that Sajid Ansari (deceased) succumbed to the injuries caused by a sharp edged weapon. He submitted that the incident was not a premeditated act, inasmuch as, the stump was picked up from the spot, where the incident took place. He further submitted that there is no recovery of any weapon at the instance of the applicant.

4. Learned APP and learned counsel for the intervener opposed the application.

5. Perused the papers. According to the complainant – Sajid Saeed Thankar, his brother-in-law Sajid Ansari (deceased) was an RTI Activist. He has stated that Sajid had gathered information, about an illegal

construction of an entry gate at Accord Housing Complex, Mumbra and that pursuant to the information received and complaint made by Sajid Ansari, the Thane Municipal Corporation had demolished the gate. He has stated that because of the same, the relations between the residents of Accord Housing Complex and Sajid Ansari were strained. He has further stated that on 21<sup>st</sup> January, 2016, at about 6.45 p.m., Sajid asked him to accompany him to purchase milk; that when they were walking towards the shop, the applicant came from behind and hit Sajid with his hands and started abusing him; that the applicant picked up a wooden stump lying on the spot and assaulted Sajid with the wooden stump on his head. He has stated that co-accused Mohammed Shaikh held Sajid's neck and stabbed him with a sharp edged weapon and that; thereafter two others came and started assaulting Sajid with kick blows. He has stated that when he started shouting for help, the applicant threatened everyone with dire consequences. According to the complainant, thereafter, the applicant again assaulted Sajid with a stump and pulled out a knife and assaulted Sajid with a sharp edged weapon. The postmortem report shows that the deceased had sustained as many as 8 injuries. The probable cause of death was stated to be 'Hemorrhage and shock due to injury to vital structures

due to stab wound caused by sharp pointed weapon.' No doubt, the other eye-witnesses to the incident, have not disclosed about the applicant having assaulted the deceased with a sharp edged weapon, but the fact remains that they have named the applicant and have stated that he assaulted with a stump. It is pertinent to note that the complaint/FIR has been lodged promptly i.e. on the very same day, which *prima facie*, shows the complicity of the applicant. It also appears, that the said information i.e. assault by the applicant with the stump and knife, was disclosed to Sharukh Sayyed, by the complainant, soon after the incident. The statement of Sharukh Sayyed supports the disclosure made by the complainant in the FIR. It appears, that as the deceased had complained to the Thane Municipal Corporation, regarding the illegal construction of the gate, the Corporation had demolished the gate, as a result of which, the accused were enraged. There are 3 antecedents, qua the applicant. It is pertinent to note, that the deceased had in 2015 lodged a complaint/FIR as against the applicant, alleging an offence punishable under Section 324 of the Indian Penal Code.

6. Considering the role of the applicant and the antecedents, qua the applicant, this is not a fit case to enlarge the applicant on bail. The possibility of the applicant tampering and intimidating the witnesses also cannot be ruled out, in the peculiar facts of this case.

7. Accordingly, the application for bail is rejected and disposed of as such.

8. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application, and the learned Judge shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

**(REVATI MOHITE DERE, J.)**