

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

CRIMINAL BAIL APPLICATION NO. 814 OF 2017

Imran Nashir Khan @ Immu ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Manoj Bhatt for the applicant.

Mr. M. G. Patil, APP for the respondent – State.

PI R. B. Valatkar, Mumbra Police Station present

CORAM : PRAKASH D. NAIK, J.

DATE : 11 JULY, 2017

P.C. :

. This is an application for bail in connection with C. R. No.I-127 of 2016 registered with Mumbra Police Station, Thane for the offence punishable under sections 302, 201 120B read with 34 of IPC.

2. The prosecution case is that the applicant accused was holding the scissor from tailoring shop and he was threatening the people. He assaulted the victim by the said scissor. On account of injuries sustained by the victim he died. It is alleged that the applicant created the terror in the vicinity. He was apprehended by the police and since then he is in custody.

3. Learned advocate for the applicant submitted that the complainant is not eye witness to the incident. The complainant was informed about the incident by one Salman who is brother of the victim. The Statement of Salman was recorded subsequently which is vague. The recovery is doubtful. The applicant allegedly gave a single blow on the shoulder of the victim which slipped down to the lung which has resulted in the death. He relied upon the medical certificate to submit that the offence would not fall under section 302 of IPC. The applicant is in custody since 1 ½ years and he may be released on bail on certain terms and conditions.

4. Learned APP opposed the application. It is submitted that the statement of the complainant, the brother of the victim and other witnesses supports the prosecution case. It is submitted that the involvement of the applicant is reflected in the statement of witnesses. It is further submitted that the applicant was creating terror by waving the scissors which fact was referred to by the witnesses. He further submitted that there were four cases registered against the applicant, out of which one case which was registered under section 302 of IPC has resulted in acquittal and three other cases are pending.

5. Perused the material on record. There is evidence showing involvement of the applicant in the crime. The role has been attributed to the applicant that he was armed with scissor and the victim was trying to pacify him who had sustained injuries at the instance of the applicant. The submissions that the offence is not made out under section 302 of IPC cannot be adjudicated at this stage, considering the nature of injuries sustained by the victim. There are antecedents against the applicant. Three cases are pending against the applicant for commission of offences under sections 324, 323 and 326 of IPC.

6. In these circumstances, no case for bail is made out, therefore, the application deserves to be rejected.

7. Bail Application No.814 of 2017 stands rejected.

[PRAKASH D. NAIK, J.]