

Anand

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

**BAIL APPLICATION NO.845 OF 2017
(Through Jail)**

Mahesh Gopal Patel .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.P.M.Patil, Appointed Advocate, for the Applicant
Mr.S.S.Hulke, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 31.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, sent through jail, the Applicant seeks his enlargement on bail or in the alternative, prays that his trial be expedited. Mr. Patil, was appointed as Amicus Curiae to espouse the cause of the Applicant.

3. The Applicant was arrested in connection with C.R.No.64 of 2015 registered with the Kalamoli Police Station, Navi Mumbai, for the alleged offence punishable under Section 302 of the Indian Penal Code.

4. Learned APP had on the last date, handed over a copy of the charge-sheet on the learned counsel for the Applicant, to enable him to go through the same.

5. Learned counsel for the Applicant submits that the Applicant is languishing in jail from May, 2015. He submits that it appears that the Applicant has not been produced before the learned Judge for about one year. He submits that the Applicant had a good case on merits.

6. Learned APP opposes the Application.

7. Perused the papers. The Applicant is the elder brother of deceased – Vishal, who at the time of the incident, was about 19 years old. The Complainant is the father of the Applicant and the deceased. Although the prosecution case rests on circumstantial evidence, there is ample evidence to show the complicity of the Applicant. It appears that on 29.05.2015 at about 9.30 p.m., the Applicant stabbed his brother – Vishal, aged 19 years, in the lift. Vishal succumbed to the injury on the next day i. e. 30.05.2015. It appears, that deceased – Vishal had made an oral dying declaration to his mother, sister and brother stating, that the

Applicant had assaulted him with a knife in the lift. A perusal of the FIR shows that a quarrel had taken place on early day between the Applicant and the Complainant (father) in which Vishal had intervened, pursuant to which Vishal was assaulted on the next day. There is recovery of a knife at the instance of the Applicant.

8. Considering the material qua the Applicant, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected. The trial of the Applicant is, however, expedited. The learned Sessions Judge, Alibag to decide the said case as expeditiously as possible and in any event, within a period of nine months from the date of passing of this order.

9. The D.C.P., Head Quarter, Navi Mumbai to ensure that the Applicant is produced before the concerned Court on every date of hearing, as the case has been expedited.

10. Accordingly, the Application is disposed of.

11. Registry to communicate the said order to the D.C.P., Head Quarter, Navi Mumbai and the Superintendent, Talaja Central Prison,

who is lodged in Taloja Central Prison, Taloja, Navi Mumbai.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)