

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

CRIMINAL BAIL APPLICATION NO. 1171 OF 2017

Bhavesh Chandrakant Makwana

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Subhash Jha a/w. Ms. Sanjana Pardeshi i/b. Law Global for the
applicant.

Mr. V. V. Gangurde, APP for the respondent - State.

CORAM : PRAKASH D. NAIK, J.

DATE : 2 AUGUST, 2017

P.C. :

1. This is an application for bail. The offence was registered vide C.R. No.131 of 2017 on 14th April, 2017. Initially, the offence was registered under section 326 of IPC which was subsequently converted into 307 of IPC.

2. The case of the prosecution is that the complainant was acquainted with applicant. It is alleged that on 13th April, 2017 when the complainant was sitting in compound of her residence, the accused tried to have conversation with her. He assaulted her by giving fists blows in her abdomen. Thereafter, he removed knife and

gave a blow on wrist and on the back of complainant. The incident of assault is allegedly taken place on account of refusal by the complainant to marry applicant. The complainant has alleged that there was friendship between accused and her for a period of about one and half year. The applicant was arrested on 14th April, 2017. The investigation is completed and the chargesheet has been filed.

3. Learned advocate for the applicant submitted that the offence was registered under section 326 of IPC and on the same state of fact it was converted into 307 of IPC. There is no evidence to support the charge under section 307 of IPC. The applicant is in custody since date of arrest and further custody of the accused is not necessary as the chargesheet has already been filed. He also pointed out the injury certificate of the victim which refers to the injuries sustained by the complainant which according to him does not support the charge under section 307 of IPC.

4. Learned APP submitted that the victim / complainant has attributed the specific overt act to the applicant. It is submitted that the accused was known to the complainant and on refusal to get married she has been assaulted by the applicant / accused. If the applicant is released of bail, he may repeat the act. He also pointed

out injury certificate which refers to injury sustained by complainant.

5. Perused the documents on record. The applicant and complainant were acquainted with each other for a period of about one and half year as stated by the complainant in the FIR. The statement of the brother of the complainant however refers to the fact that the complainant had disclosed to him that she was having friendly relationship with accused since last five years. It is true that the accused has no right to assault the complainant on refusal to marry him. However, it is noted that he is in custody since 14th April, 2017 and the chargesheet has already been filed. It is debatable whether the charge under section 307 would be attracted in this case. Considering the safety of the complainant, certain conditions can be imposed upon the applicant while granting bail. Hence, I pass following order;

:: ORDER ::

- (i) Bail Application No.1171 of 2017 is allowed.
- (ii) The applicant is directed to be released on bail in connection with C.R. No.131 of 2017 registered with Kandivali Police Station, Mumbai on furnishing P.R. Bond in the sum of

Rs.25,000/- (Rupees Twenty Five Thousand only.) with one or more sureties in the like amount.

(iii) The applicant is directed to report to the concerned police station once in a month on the first Saturday of the month between 11.00 am to 1.00 pm till further orders.

(iv) The applicant shall not enter into the residential area of the complainant and he shall not try to approach the complainant.

(v) The applicant shall attend trial Court on date of hearing of the case.

(vi) The applicant is permitted to furnish cash security for a period of four weeks in lieu of sureties.

[PRAKASH D. NAIK, J.]