

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION No. 1456 OF 2016**  
**IN**  
**CRIMINAL APPEAL No. 662 OF 2016**

Nitesh @ Chauda s/o Krushnkumar Zha.

..Applicant.

**Versus**

State of Maharashtra.

..Respondent.

Mr. Khan Fakhruddin for the Applicant.

Mrs. M. M. Deshmukh, APP for the State.

Coram : Ranjit More &

Dr. Shalini Phansalkar-Joshi, JJ.

Date : **February 16, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the Applicant and learned APP for the State. Application is for bail during the pendency of appeal.

2. The Applicant who is original accused no.4 along with accused no.1 came to be convicted for the offence punishable under section 302 read with 34 of the Indian Penal Code, 1860 and sentenced to suffer life imprisonment. So far as the present Applicant is concerned, trial Court held him guilty on following three circumstances :

- 1] that shortly after the incident Applicant was found to have injuries on his person;
- 2] that those injuries can be caused by weapons in the present case;

3] That Applicant made statement before the medical officer that injuries caused as accused Sayeed had snatched knife from his hand.

3. The Investigating Officer has been examined as PW-19. From his evidence, it is clear that the incident has taken place on 23<sup>rd</sup> May 2012, the Applicant was arrested on 25<sup>th</sup> May 2012 and Applicant was examined by the medical officer on 28<sup>th</sup> May 2012. The Investigating Officer in his examination has stated that there was no injury found on his person when the Applicant was arrested. Prosecution also relied upon the recovery of blood stained clothes at the instance of the Applicant. However, Chemical Analyst's report does not disclose that blood found on the clothes of Applicant tallies with the blood group of the deceased. The Applicant is in custody since his arrest, i.e., since 25<sup>th</sup> February 2012. Though appeal is admitted there is no possibility that appeal will be heard in near future. In the circumstances, we are inclined to grant bail. Application is accordingly allowed. The Applicant be released on PR bond of Rs.20,000/- with one or two sureties of like amount. The Applicant shall remain present at the time of final hearing of the appeal. Application stands disposed of.

**[Dr. Shalini Phansalkar-Joshi, J.]**

**[RANJIT MORE, J.]**