

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

**CRIMINAL BAIL APPLICATION NO.161 OF 2019
IN
CRIMINAL APPEAL NO.141 OF 2019**

Rohitsaw Harising Yadav

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....

Mr.Kapil P. Dave, Advocate for the Applicant.

Mrs.P.P. Shinde, APP for the Respondent-State.

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**CORAM : B. P. DHARMADHIKARI AND
PRAKASH D. NAIK, JJ.**

DATE : APRIL 18, 2019.

P.C.:

Applicant accused convicted under Section 302 of Indian Penal Code was an officer of State Reserve Police Force. The alleged incident occurred when according to prosecution, he contacted his colleague for change of duty. The rifle in his hand fired indiscriminately killing two other colleagues and two other colleagues got injured.

2 Submission of learned counsel for the applicant is that one of the witness has deposed that there was only one rifle which used to be rotated and as such, fact of possession

of rifle through which eight rounds were fired with applicant needed to be established, that has not been done. Second contention is that applicant had no grudge against any of the colleagues and those colleagues were then not within site and the firing even if accepted, therefore, was not meant to injure anybody. Indiscriminate firing in present matter therefore cannot be seen as an indication of knowledge that somebody would be hit or it may constitute a culpable homicide.

3 Learned APP on the other hand submits that two colleagues sleeping in the adjacent room received bullet injuries and died while two others were injured. According to her, the colleague to whom applicant had contacted tried to remove the rifle from applicant and the bullets were fired by applicant.

4 The judgment delivered by Sessions Court for Greater Bombay is dated 28th November, 2018, and accused is in jail since 27th May, 2014.

5 At this stage, we cannot sift evidence to gather the intention or its absence. It is apparent that rifle did not have

safety latch on when incident of firing occurred i.e. when applicant contacted his colleague demanded change in duty. We, at this stage, cannot venture to appreciate contention that indiscriminate firing in such situation may not indicate knowledge that death may occur.

6 We have perused material on record. We find no case made out for releasing the applicant on bail.

7 Application is rejected.

8 However, we grant applicant leave to move for grant of fixed date of hearing after six months.

(PRAKASH D. NAIK, J.) (B.P. DHARMADHIKARI, J.)