

Anand

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

BAIL APPLICATION NO. 487 OF 2019

Nagesh Laxman Gowender .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. A. H. Fatangare i/b. Ms V. V. Pandit, Advocate, for the Applicant

Mrs. P. P. Shinde, APP, for the Respondent No. 1 – State

Mr. S. J. Garad, API, Vangaon Police Station, Palghar present

CORAM : REVATI MOHITE DERE, J.

DATE : 19.03.2019

P.C.

. Heard learned counsel for the parties.

2. This is the second Bail Application. The first Bail Application was withdrawn after arguing for some time and as such, was dismissed as withdrawn. The trial of the Applicant was, however, expedited. The same is recorded in the order dated 15.03.2018.

3. By this second Bail Application, the Applicant seeks his enlargement on bail in connection with C. R. No. I-33 of 2017

registered with the Vangaon Police Station, District – Palghar for the alleged offences punishable under Sections 302 & 201 of the Indian Penal Code.

4. The prosecution case rests on circumstantial evidence. According to the prosecution, a quarrel ensued between the Applicant and the deceased – wife, resulting in the Applicant assaulting her with a sharp weapon, which resulted in her death. Though learned counsel for the Applicant submitted and relied on the statement of the Applicant's daughter to show, that the deceased had fallen in the bathroom and had sustained an injury, prima facie, the evidence on record is to the contrary. Column 17 of the Post Mortem Report shows that the deceased had sustained single a sharp edged pear shape lacerated wound about 15 cm in length; 2.5 cm in width and 3 cm deep involving left cheek and lateral aspect of left eye extending backwards above left ear till temporal aspect of scalp. Column 18 i. e. internal injury shows that the deceased had sustained lacerated wound left temporal aspect of scalp i. e. soft tissue hemorrhage. The Doctor on being shown the weapon has opined that the said wound sustained by the deceased was possible with a sharp knife, which was seized

from the Applicant under Section 27 of the Evidence Act. The Doctor has opined that the type of injury over the body was possible by the sharp knife, shown by the police. The statement of the Complainant (brother of deceased) shows that he had heard the quarrel between the Applicant and his sister in the night prior to the incident and that in the morning, he was informed by his niece i. e. the Applicant's daughter that the deceased was lying in the bathroom. The deceased was taken to the hospital, where she was declared dead. There is recovery of a knife at the instance of the Applicant.

5. Considering the evidence on record, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected.

6. The trial of the Applicant was already expedited vide order dated 15.03.2018. The learned Judge shall make an endeavour to conclude the trial as expeditiously as possible and preferably within 12 months from the date of receipt of this order.

(REVATI MOHITE DERE, J.)