

Anand

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

BAIL APPLICATION NO. 1312 OF 2019

Muktarali Mohammed Sardar Mir .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Fakruddin Khan, Advocate, for the Applicant
Mr. P. H. Gaikwad-Patil, APP, for the Respondent – State
Mr. Sanjay Patil, PI, presently attached to the Sadar Bazar Police
Station, Solapur present

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2019

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. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 535 of 2018 registered with the Dindoshi Police Station, Mumbai, for the alleged offence punishable under Section 302 of the Indian Penal Code.

3. Perused the papers. The Applicant and the deceased – Shafique were tailors working for a tailoring shop. It is alleged by the prosecution that the incident took place on 13.10.2018 at about 2.30 p.m. It is alleged that there was a quarrel between the Applicant and the deceased – Shafiq, over stitching of a sleeve. It is alleged by the

prosecution that suddenly, both, the Applicant and the deceased started arguing and started abusing each other. It is alleged that the deceased in self defence threw an electric tube choke on the Applicant, pursuant to which the Applicant threw a Scissor in the direction of the deceased – Shafique. There are eye witnesses, who have seen the incident and have stated that the incident took place at the spur of the moment and that the deceased threw an electric tube choke at the Applicant, as the Applicant was assaulting the deceased in the quarrel, pursuant to which the Applicant picked up the scissor lying at the spot and threw it at the deceased – Shafique. It is alleged that pursuant thereto, deceased – Shafique started bleeding and he was taken to the hospital. The Post Mortem Report shows that the deceased sustained one stab lacerated wound on the left lower side of chest. Prima facie, it appears that the incident took place in a sudden quarrel. Whether or not the offence is one punishable under Section 302 or a lesser offence, is a matter which will be decided by the trial Court. The Applicant is in custody since October, 2018. The Applicant has no antecedents. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing P. R. Bond

in the sum of **Rs. 20,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10:00 a. m. and 12.00 noon** till the conclusion of the trial;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The Applicant shall not leave Mumbai City / Thane City without prior permission of the trial Court;

(vi) The Applicant to cooperate with the conduct of the trial and attend the Court on every date, unless exempted;

(vii) The Applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

6. It is made clear that the observations made herein are

prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)