

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

**CRIMINAL APPLICATION NO.890 OF 2019
IN
CRIMINAL APPEAL NO.118 OF 2017**

Ananda Namdeo Ambekar

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Payoshi Roy i/b Dr. Yug M. Chaudhary for the Applicant.

Mr. H. J. Dedhia APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
SMT. SWAPNA S. JOSHI, JJ.**

DATE : 17/06/2019.

P.C.:

. Heard learned counsel for the applicant and learned APP for the State. Submission is that the applicant is in prison since 2012 and if remission earned by him till date is added, he may have completed more than 8 years in prison. Offence alleged by prosecution is at the spur of moment in fit of anger and without premeditation.

2. Learned counsel submits that though self defence was not pleaded by accused specifically, necessary facts including so called extra judicial confession supports his defence. Judgment of Hon'ble Apex Court reported at *James Martin vs. State of Kerala, 2004 ALL MR (Cri) 551 SC*, paragraph 14 and judgment reported at *State of UP vs. Lakhmi, AIR 1998 Supreme Court 1007* paragraph 16 and 17 are relied upon to show that the circumstances and facts on record which support such defence, can be pressed into service even before this Court.

3. Learned APP is opposing bail application. He pointed out the mode and manner in which injuries are inflicted on deceased. He adds that initially applicant wanted to run away but because of presence of others could not do it. He claims that in this situation the matter at the most be added to final hearing board.

4. In reply learned counsel for the applicant without prejudice pointing out extra judicial confession states that accused claimed to have uttered the words that he himself would go to police station. It is submitted that at the worst it would be offence under section 304(II) not punishable with rigorous imprisonment for more than 7-8 years.

5. Reference to so called extra judicial confession and even perusal of evidence of witnesses including PW-1 show that the deceased and the applicant were residing under same shed. There was quarrel between them over cleaning of utensils and during that quarrel deceased abused petitioner in the name of his mother. This angered him and he used sickle lying in the shed itself and inflicted two blows on the neck of deceased.

6. It does not appear that he wanted to run away as after initial phone call to his master demanding money, he also informed him that he has killed deceased.

7. We find that the petitioner has already put in about 7 years in prison, the appeal preferred in the year 2017 is not likely to be heard finally in next 4-5 years. We are therefore inclined to release him on bail during pendency of appeal on the following terms and conditions:

- i) The applicant shall be released on bail on his furnishing PR bond in the sum of Rs.25,000/- with two independent sureties in the

like amount;

ii) He shall also place on record on affidavit address at which he shall be always available during pendency of this appeal with his contact number;

iii) Similar details in relation to his surety/s shall also be furnished;

iv) During appeal vakalatnama filed shall be kept alive and he shall not be entitled to separate notice of final hearing;

v) He shall report on first working Monday once after gap of two months to Superintendent/Registrar in the Court of District Judge-Additional Sessions Judge, Islampur;

vi) Failure to observe terms and conditions of this order shall entitle respondent to take him in custody.

8. Application is accordingly allowed and disposed of.

9. Affidavit of compliance be filed with the Registry of this Court within a period of two weeks.

(SMT. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)