

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

CRIMINAL BAIL APPLICATION NO.1488 OF 2018

Ansar Kamruddin Alam .. Applicant

Vs.

State of Maharashtra .. Respondent

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Ms.Misbah. Solkar a/w. Maaz Ansari i/b. Mr.Amin Solkar,
Advocate for the Applicant.

Mrs.A.A. Takalkar, APP for the Respondent - State.

Mr.T.K. Mhaske, ASI, Dharavi Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 13, 2019.

P.C. :

The applicant was arrested on 17th August, 2017, in connection with C.R.No.352 of 2017, registered with Dharavi Police Station, Mumbai, for the offence punishable under Section 302 of Indian Penal Code ("IPC", for short).

2 First Information Report ("FIR", for short) was lodged on 17th August, 2017 by the landlord of the premises. The prosecution case which is appearing from the statement of the eye witness is that there used to be frequent quarrels between

the applicant and the deceased, who was brothers on account of payment of rent. Applicant and the deceased were conducting tailoring business in the premises and in relation to that there used to be quarrels between them on account of payment of rent. On the day of incident also there was quarrel between them. Applicant had allegedly picked up scissor, which was lying in the shop premises where the business of tailoring was conducted and gave blow on the chest of the deceased, due to which he has succumbed to the injuries.

3 Learned counsel for the applicant submitted that the incident had occurred at the spur of moment. The deceased was the brother of the applicant. There is no intention to kill the deceased. The incident had occurred when the quarrel has ensued between them. The case of the applicant would be covered by the exception under section 300 of IPC.

4 Learned APP submitted that statements of eye witnesses were recorded during the course of investigation and they have referred to the incident. The said witnesses have stated that there were quarrels between the applicant and the deceased and on the day of the incident the applicant gave blow by the

scissor on the chest of the deceased, which is fortified by the postmortem report. It is also submitted that there is recovery of seizure at the instance of the applicant.

5 It is pertinent to note that the applicant and the deceased were brothers. They were jointly conducting tailoring business in the premises where the incident had occurred. Statements of witnesses indicate that there used to be quarrels between the applicant and his deceased brother and even on the day of the incident, a quarrel had ensued between them. During the course of quarrel, the applicant had allegedly given blow by scissor, which was lying in the shop premises. Considering the factual matrix of the case, the role assigned to the applicant and also the fact that the applicant is in custody for more than one and half year, bail can be granted to the applicant.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Bail Application No.1488 of 2018, is allowed;

- (ii) Applicant is directed to be released on bail in connection with C.R.No.352 of 2017, registered with Dharavi Police Station, Mumbai, on his furnishing P.R.Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report Dharavi Police Station, Mumbai, once in a month on first Saturday of the month between 11:00 a.m. to 01:00 p.m, till further orders;
- (iv) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)