

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

CRIMINAL BAIL APPLICATION NO. 2498 OF 2019

Maylari Kale Gauda

..Applicant

V/s.

The State of Maharashtra

.. Respondent

Mr.S.V. Marwadi for the Applicant.

Mrs.J.S. Lohakare, APP for the Respondent-State.

CORAM : SANDEEP K. SHINDE, J.

DATE : 22nd NOVEMBER 2019

P.C.

1. The applicant is seeking his release on bail in the Crime No.I-1205 of 2018 registered with Tulinj Police Station for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

2. It is alleged that the applicant committed murder of his wife by inflicting sickle blows, in his house. Daughter of deceased is eye witness. Her statement under Section 164 of Cr.P.C. corroborates the complaint on the material particulars. Statement of deceaseds' son Meghraj, also corroborates the complaint on the material particulars. The recovery of weapon is at the instance of the applicant. In view of this evidence, the application is rejected.

3. The learned counsel for the applicant submits the applicant is patient of HIV positive. He submits the learned Trial Judge did not consider this aspect though medical certificate was produced.

4. Mr.Marwadi, learned counsel for the applicant relies on the order of the Hon'ble Apex Court in Criminal Appeal No.788 of 2017 wherein the Hon'ble Apex Court directed, to release the accused having found to be HIV positive.

5. Liberty to the applicant to move the learned Sessions Judge to seek his release on the medical ground. The Learned Sessions Judge shall decide the application, if any, filed by the applicant, on its own merits and after calling report from the Medical Officer and without being influenced by the observations made by this Court in this order.

5. Application is disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)