

Dond

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

BAIL APPLICATION NO.3220 OF 2018

Rizaul Abidali Shah

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Prakash Wagh for Applicant.

Ms. J.S. Lohokare, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 19th March 2019.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No. 206 of 2017 dated 19.4.2017 registered with Pant Nagar Police Station, Mumbai under section 302 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP. Perused the chargesheet.

3] Applicant is the nephew of deceased Mohd. Mustafa Khan. It is the prosecution case that, due to sale transaction of a hut belonging to the applicant, there was quarrel between the applicant and the deceased. When the deceased when in inebriated condition, he abused and assaulted the applicant and therefore the applicant got enraged and assaulted deceased with a sickle on his neck in heat of anger. There is recovery of sickle at the instance of applicant

under Section 27 of Evidence Act. The said recovery of the weapon is from the open space which was easily accessible to many persons. Prima facie it appears that the applicant has assaulted the deceased due to grave and sudden provocation and in a fit of anger. The applicant is in jail since 23.4.2017 and the police have already completed the investigation. It is submitted that, there are no antecedents at the discredit of the applicant. No fruitful purpose will be served by further detaining the applicant in incarceration.

4] In view of the above, the applicant can be released on bail.

Hence the following Order:-

i] Applicant be released on bail in CR No. 206 of 2017 registered with Pant Nagar Police Station, Mumbai on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount;

ii] The applicant shall also attend all the dates before the Trial Court unless precluded for medical reasons.

iv] In case of two consecutive defaults, the Investigating Officer is at liberty to file an application for cancellation of bail.

5] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)