

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

BAIL APPLICATION NO. 3585 OF 2021

Kalpesh Ashok Kalambe

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Sunny A. Waskar a/w. Ms. Harshada V. Morey and

Mr. Shamish Marwadi for the Applicant.

Ms. A.A. Takalkar, APP for the State.

Mr. Vilas Tambe, PSI, Dindoshi Police Station, Mumbai, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 26th APRIL, 2023.

P. C. :-

. This is an Application under section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Sessions Case No.320/2020 pending on the file of learned Additional Sessions Judge, Borivali Div., Dindoshi, Mumbai. The said case arises from C.R.No.205/2020 registered with Dindoshi Police Station, Mumbai for offences punishable under sections 302 of the Indian Penal Code.

2. The case of the prosecution is that on 26/05/2020, at about 01:00 a.m., opposite Oberoi Mall under Dindoshi Flyover Bridge, Goregaon (E), Mumbai, the pillion rider of the motorcycle got down and stabbed one pedestrian. The deceased was identified as Arun Sharma. The post mortem report reveals that the deceased had sustained two injuries. One

of the injuries was a *stab injury on anterior aspect of abdomen, midline, 06cm above umbilicus, 22cm from right nipple spine, obliquely placed of size 02cmx0.8cm x abdominal cavity deep, margin clean cut infiltrated with blood, both ends sharp*. The nature of injuries as described in column no.17 of the post mortem report reveals that a very forceful blow of knife was inflicted on the abdomen of the deceased.

3. The Applicant and the co-accused were arrested. They have been identified by the witnesses who had seen the actual incident. The clothes of the Applicant which were seized, as per the CFSL report, were stained with human blood. In addition, there are two extra-judicial confessions which prima facie shows the involvement of the Applicant in committing the said crime.

4. The material on record prima facie shows the involvement of the Applicant in commission of the crime. It is stated that 08 other crimes are registered against the Applicant. The subject crime was committed while the Applicant was on bail. Considering the above facts and circumstances, this is not a fit case to exercise discretion under section 439 of Cr.P.C. in favour of the Applicant. Hence, the Application is dismissed.

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(SMT. ANUJA PRABHUDESSAI, J.)