

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

CRIMINAL BAIL APPLICATION NO. 3573 OF 2022

Balya @ Akshya Shantavan Gaikwad	...Applicant
Versus	
The State Of Maharashtra	...Respondent

Mr. D. K. Pradhan for the Applicant.
Mr. Y. Y. Dabke, APP, for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th SEPTEMBER 2023.

P.C. :

1. By this application, applicant is seeking bail in C.R. No.223 of 2017 registered with Kalyan Taluka Police Station, Dist-Thane for offences punishable under Sections 302, 352 and 504 of Indian Penal Code (for short "IPC").

2. It is prosecution's case that, on the earlier day of incident i.e. 1st October 2017 there was quarrel between Applicant and deceased Rohit. On 2nd October 2017 around 12:30 p.m. when complainant was sitting along with his friends in his cabin, someone knocked the cabin's door. Complainant opened the door. Applicant was standing outside. The applicant told him that, he wanted to

apologies Rohit. The complainant thought that, due to last day's quarrel the applicant is going to apologise to Rohit. Thereafter, applicant confronted Rohit and took out big knife, hidden in his waist and stabbed on the left side of the chest of Rohit, due to said assault, Rohit fell down. Complainant and his friends tried to catch the applicant but, he ran away. Due to said stab injury Rohit died.

3. It is contention of learned counsel for the applicant that, applicant has been falsely implicated in this case. Applicant had not stabbed the deceased. Investigation is completed and charge-sheet has been filed. Applicant is behind bar for more than six years. There is no *prima facie* case against the applicant. Hence, requested to allow the application.

4. Learned APP submitted that, incident happened in presence of the complainant. There are statements of eye witnesses, who states that, applicant stabbed deceased with knife. Learned APP further submitted that, at the instance of applicant the knife is recovered which was used in offence. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and charge sheet.

6. It appears from the statement of complainant and eye witnesses that, applicant had assaulted the deceased with knife on his left side of chest, it appears from record that on the earlier day of the incident, there was quarrel between applicant and deceased. Applicant had gone to the place of the deceased with knife. It shows he had intention to kill the deceased and he gave blow of knife on the vital part of the deceased i.e. chest. The knife used in the crime is seized at the instance of applicant. There is *prima facie* case against the applicant. Merely applicant is behind bar for more than six years cannot be ground to released him on bail.

7. In view of above, I pass following order.

ORDER

i) Application is rejected.

(SHIVKUMAR DIGE, J.)