

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

**INTERIM APPLICATION NO.3490 OF 2024
IN
CRIMINAL APPEAL NO.1042 OF 2024**

Dadabhau @ Prem Nivrutti PawarApplicant
Versus
The State of MaharashtraRespondent

Mr. Pranav Badheka, Advocate (appointed through Legal Aid) for
the Applicant.

Mr. Y.M. Nakhawa, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 06th JANUARY, 2025

P.C. :

1. This is an Application for bail pending Appeal.
2. Heard Shri Pranav Badheka, learned appointed counsel
for the Applicant and Mr. Y.M. Nakhawa, learned APP for the
Respondent-State.
3. The prosecution case is that on 17.4.2019, the Applicant
assaulted the deceased Saddam with a knife causing seven injuries
resulting in his death.
4. Learned counsel for the Applicant submitted that the

case would not fall within the meaning of ‘murder’ as defined under Section 300 of IPC, but, it would fall within the *First Exception* to Section 300. He submitted that the quarrel started suddenly and it was only because the deceased had taken the mobile phone of the Applicant and when the Applicant asked for returning that mobile phone and when Saddam refused, this incident took place.

5. Learned APP opposed these submissions. According to him, the nature of injuries and the number of injuries show that the case may not fall within the *First exception* mentioned under Section 300 of IPC.

6. We have considered these submissions. The prosecution case is deposed by three eye witnesses, namely, PW-4 Rushikesh Pendhari, PW-5 Sanjay Jadhav and PW-6 Shadab Shaikh. Out of them, PW-5 Sanjay Jadhav was not knowing the accused and there is no test identification parade held. He only identified the accused through the Video Conferencing.

7. However, the evidence of PW-4 and PW-6 is more important. They have narrated the incident in detail. Out of them, PW-4 has stated that at about 3.00 p.m. on 17.4.2019 Saddam took

away the Applicant's mobile phone. After some time, the Applicant approached him and demanded back his mobile phone. There was a quarrel. The Applicant removed the knife from his pocket and assaulted Saddam. PW-6 had actually seen the assault.

8. In this context, the medical evidence is important. PW-7 Dr. Hemant Ghangle has described seven injuries suffered by the deceased, out of which five injuries were stab wounds and two other were punctured wounds. All the injuries were on the chest except two injuries which were on the left forearm.

9. Thus, it can be seen that the Applicant was carrying a knife and he inflicted seven blows. Therefore, there is an element of premeditation as well as intention to commit murder, which can be seen at this stage. Beyond that it is not possible to re-appreciate the evidence for consideration of bail pending Appeal. No case for grant of bail is made out. The Application is, therefore, dismissed.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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