

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3054 OF 2015

IN

CRIMINAL APPEAL NO.454 OF 2015

Khandu s/o Ravan Shinde,
Age-32 years, Occu:Labour,
R/o-Hanuman Lane, Dharur,
Tq-Dharur, Dist-Beed

...APPLICANT
(Ori. Accused No.1)

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.S.J. Salunke Advocate for Applicant.
Mr.B.L. Dhus, A.P.P. for Respondent.
...

CORAM: S.S. SHINDE AND
A.I.S. CHEEMA, JJ.

DATE : 29TH JULY, 2015

ORDER :

1. Heard learned counsel appearing for the Applicant/Appellant. He submits that the case rests upon the circumstantial evidence. None of

the circumstance has been proved by the prosecution. He invited our attention to the evidence of PW-2 and PW-3, and submitted that even though both the witnesses turned hostile, the trial Court relied upon the evidence of PW-2 and PW-3. It is submitted that even if the prosecution case is taken as it is that, the Applicant was seen in the company of the deceased, that circumstance alone is not sufficient to pass conviction when the case rests upon the circumstantial evidence. He submits that C.A. Report does not support the prosecution case. He submits that Appellant is the Karta of the family and entire family is dependent upon him, therefore he may be released on bail. The counsel submits that the Applicant will abide by all the conditions imposed by this Court in the event of grant of bail. In support of his submissions, the learned counsel for Applicant placed reliance on the Case of **Ashok vs. State of Maharashtra, reported in 2015(2) Bom. C.R. (Cri.) 8.**

2. The learned A.P.P. submits that the trial Court has properly appreciated the evidence on record. Appellant was not on bail during the trial. The A.P.P. submits that Application be rejected.

3. We have heard learned counsel appearing for the Applicant/Appellant and learned A.P.P. for State and perused the findings recorded by the trial Court. It is true that PW-2 and PW-3 were declared hostile, however, the learned Judge of the trial Court has discussed about legal position about hostile witnesses in Para 70 of the impugned Judgment and it is observed that evidence of the hostile witnesses to the extent it supports the prosecution case can be read in evidence. We have independently considered the evidence of PW-2 and PW-3. Upon reading the deposition of PW-2 and PW-3 and other evidence brought on record, prima facie the findings recorded by the trial Court appears

to be in consonance with the evidence on record.

4. In that view of the matter, since the Appeal of the Appellant is pending, we do not wish to elaborate on the evidence any further. Suffice it to say that the findings recorded by the trial Court are sustainable. Hence no case is made out for entertaining the Application for bail. The Application stands rejected.

5. Registry of this Court shall send the original Record and Proceedings to the Registry of Sessions Court, Majalgaon. Upon receiving the original Record and Proceedings by the Registry of Sessions Court, the Registry of concerned Court shall prepare the Paper-Book and send it back along with original Record and Proceedings, as expeditiously as possible, however in any case within four months from today.

6. Upon receiving Paper-Book along with

Record and Proceedings, liberty to the Applicant/Appellant to apply for early hearing of the Appeal.

[A.I.S.CHEEMA, J.]

asb/JUL15

[S.S.SHINDE, J.]