

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2324 OF 2014

Dinesh Neellappa Kore

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Shirish Gupte Senior Advocate a/w Mr. V. V. Purwant for Applicant
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : MARCH 9, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 01/06/2014 in crime no. 80 of 2014 registered at Pangri Police Station for offence punishable under sections 302 & 120 (B) of Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that on 31/05/2014, Somnath Gadhve who happens to be the uncle of Nagesh Gadhve, lodged a report at the police station alleging therein that on that day, in the afternoon, present applicant along with Pravin Rikibe had come to their house and had called upon Nagesh

ism

Gadhve. Thereafter, Nagesh had accompanied applicant and Pravin Rikibe. At about 6.30 pm, on the same day, first informant learnt that Nagesh has met a homicidal death near Aryan Sugar Factory. He therefore, reached the spot. Police had already reached the spot and had conducting panchanama. First informant has stated that due to some quarrel, present applicant and Pravin Rikibe had taken Nagesh to a particular spot, where he had been eliminated forever.

3) In the course of investigation, investigating officer has recorded the statement of one Deepak Tate on 07/06/2014 who happens to be an eye witness to the incident. He has stated that on that day, i.e. on 31/05/2014, his friend Amol Mohite had called upon him. He had obliged Amol. He was asked to come to hotel Shivali by Datta Taur. Near Aryan Sugar Factory, beneath a Neem tree, he had seen Nagesh Gadhve, Pravin Rikibe and present applicant chitchatting. Since Deepak Tate was not on cordial terms with Pravin Rikibe, he did not talk to them. Thereafter, he accompanied Amol Mohite. When they went further, they had seen co-accused had assembled at spot. Two unknown persons had brought weapons in a sack. Thereafter, he

had seen present applicant leave the spot and had gone towards the sugar factory. After the departure of the present applicant, Deepak Tate had seen rest of the accused assaulting Nagesh with weapons, which were brought by other two unknown persons.

4) Learned senior counsel for the applicant rightly submits that incident of assault has taken place only after departure of the present applicant from the scene of offence.

5) Learned APP submits that applicant in fact had facilitated accused persons to assault Nagesh Gadhve as he had requested him to accompany him at that point of time.

6) Prima facie, it cannot be said that applicant had knowledge that Nagesh would meet homicidal death on that day or that other accused had intention to eliminate Nagesh Gadhve. In view of this, applicant has made out prima facie case for grant of bail. However, it is made clear that other co-accused shall not claim parity with present applicant. It is further made clear that

ism

Observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) Applicant shall report to concerned police station on first Sunday of every month, between 10.00 am to 12.00 noon, till the conclusion of trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)