

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.419 OF 2015

Dnyaneshwar @ Sonya Ganpat Mankar .. Applicant
Versus
The State of Maharashtra .. Respondent

Mrs.Anjali Patil, Advocate for the applicant.

Mr.Deepak Thakre, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 7th APRIL, 2015

P.C. :

1 Heard Mrs.Anjali Patil, learned counsel for the applicant. Heard Mr.Deepak Thakre, learned APP for the State.

2 The applicant's application for bail was withdrawn by him after advancing some arguments. It was on 5th August 2013. The applicant again made an application for bail which was rejected by an order dated 27th January 2014, primarily on the ground that there had been no change in the circumstances. While rejecting the second bail application, however, this Court directed the trial court to proceed with the trial expeditiously, and dispose it of at the earliest. Now, the present application – the third one – has been made primarily on the ground that the trial has not yet commenced in spite of the directions given by this Court.

3 In the circumstances, it was thought proper to call for a report from the trial court to ascertain the present state of the trial. Report has accordingly been received, and I have gone through the same. It is a fact that the trial has not yet commenced though charge has been framed as back as on 27th June 2014. One of the reasons for delay in the commencement of the trial as given by the learned Addl. Sessions Judge is that the applicant and other accused were not produced before the Court from 1st November 2014. It also appears that 41 witnesses for prosecution have been cited.

4 The learned counsel for the applicant submitted that apart from the delay in the commencement of the trial, the applicant has a good case on merits. I have therefore, examined the material in the charge-sheet in the context of this argument.

5 The allegation against the applicant and other accused is that they have committed murder of one Vijay Kangude in furtherance of the common intention of all of them. A perusal of the First Information Report which has been lodged by Ramchandra Kangude – uncle of Vijay Kangude – shows that the dispute was between Vijay and Ramchandra on one hand, and Santosh Kangude – accused no.1 in this case on the other hand. The First Informant claims to be an eye witness to the assault. The applicant is not named in the First Information Report. The version in the First Information Report is that Santosh Kangude and his four associates, who were unknown to the First Informant, assaulted the said Vijay and the First Informant by wooden and

iron rods. Thus, except Santosh Kangude, the other offenders were not known to the First Informant as per the version in the First Information Report. In the supplementary statement of the First Informant recorded on the next date, he named two other persons also, and claimed that due to anxiety, he earlier did not give their names. The other two persons subsequently named by the First Informant are accused no.2 – Sadashiv, and accused no.3 – Chintamani Kangude. At that time also, the applicant was not named.

6 The material against the applicant consists in his identification as one of the assailants by the First Informant Ramchandra, one Bharat and one Sandesh Karpe. It appears that these three persons identified the applicant as one of the assailants in the Test Identification Parade that was held on 1st March 2013. The applicant was arrested on 2nd February 2013. It appears that after the arrest of the applicant, his name as one of the assailants was disclosed by the police to the First Informant. Except such identification, there is no other material against the applicant. The weapon allegedly used by him has not been recovered in the course of investigation.

7 No antecedents are reported.

8 Considering all the relevant aspects of the matter, including that the applicant is in custody for a period of more than two years, and that the trial has not yet commenced inspite of directions given by this Court, I am inclined to release the applicant on bail subject to certain conditions.

9 Application is allowed.

10 Applicant is ordered to be released on bail in the sum of Rs.50,000/- with one surety in like amount on the following conditions :-

(i) The applicant shall not enter within the local limits of Village Male, Taluka Mulshi, till the disposal of the case against him.

(ii) The applicant shall not contact, meet or approach any of the prosecution witnesses, in any manner whatsoever.

(iii) The applicant shall report to the trial court on every Monday till the disposal of the case against him.

Application is disposed of accordingly.

(ABHAY M.THIPSAY, J)