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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.976 OF 2015
IN
CRIMINAL APPEAL NO.143 OF 2015

Sachin Suryakant Kondhare

..Applicant.

Vs.

The State of Maharashtra

..Respondent.

Mr. Daulat G. Khamkar for Applicant.

Mr. H.J. Dedhia, APP for Respondent-State.

**CORAM: SMT. V.K. TAHILRAMANI &
A.S. GADKARI, JJ.**

September 07, 2015.

P.C.:

1 Heard learned Counsel for the applicant, original accused no.2 and learned APP for the State.

2 The applicant has been convicted under Section 302 and 323 read with Section 34 of IPC. Applicant is in now seeking bail.

3 Learned Counsel for the applicant has pointed out that

though the complainant PW-1 Shivaji according to prosecution is an eye-witness to the incident, Shivaji has not deposed about witnessing the incident. The prosecution placed reliance on PW-2 Shankar who according to the prosecution is an eye-witness to the incident. PW-2 Shankar has stated that on 1.6.2010 he along with applicant Sachin and Rahul (accused no.1) went to deliver a cupboard at Sun City. Thereafter, friend of Sachin met them. He took them on his bike upto Tukai nagar and left from there. At Tukai Nagar they met Ranjit. Thereafter hot exchange of words took place between the deceased Ranjit and co-accused Rahul Jadhav. Shankar stated that Rahul and Sachin thereafter gave fist blows to Ranjit. Shankar tried to intervene. Thereafter Shankar got frightened and ran away from the spot.

4 Learned Counsel for the applicant drew our attention to the cross-examination of PW-2 Shankar wherein he has stated that on the date of incident Ranjit Kamble (deceased) never met him. PW-2 Shankar has further reiterated that it is correct to say that on the day of incident he had not seen Ranjit Kamble. This admission in the cross-examination creates doubt about the testimony of PW-2 Shankar. Moreover, it is seen that the

statement of Shankar was recorded six days after the incident. In addition, it is seen that the name of Shankar does not find mention in the FIR of Shivaji who according to the prosecution is an eye-witness to the incident. However, as Shivaji has not supported the prosecution, it is seen that Shankar is the only eye-witness in this case.

5 Taking into consideration all above facts, prima facie we find much merit in the contention raised by the learned Counsel for the applicant that the evidence of Shankar cannot be relied upon.

6 In view of all the above facts, we are inclined to grant bail to the applicant. Hence, the following order:

- (I) Applicant be released on bail in the sum of Rs.25,000/- with one or two sureties to make up the said amount;
- (II) During the period the applicant is on bail, the applicant shall report to Haveli Police Station, Pune once in 15 days.

7 Application is allowed in the above terms.

(A.S. GADKARI, J.)

(SMT. V.K. TAHILRAMANI, J.)

CERTIFICATE

**Certified to be true and correct copy of the original
signed order.**

CERTIFICATE

Certified to be true and correct copy of the original signed

judgment/order.