

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2011 OF 2014

Vishal Madhukar Sonawane

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Subhash Hylyalkar for Applicant

Mr. D. P. Adsule APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 28, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 14/04/2014 in crime no. 128/2014 registered at Bhosari Police Station, Pune City for offence punishable under section 302, 143, 147, 148 & 149 of Indian Penal Code and section 37 (1) (3) r/w 135 of Bombay Police Act. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that on 13/04/2014, one Akshay Padval and Baba Pandey along with 4 to 5 unknown persons had chased Akshay Kate and had mounted assault upon him with sickle and other deadly weapons. It is a case of direct evidence. One Hemant Lonkar happens to be an eye witness

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who had reported the incident to the mother of the deceased instantly. His statement reveals that Akshay Padval and Baba Pandey were accompanied by 4 to 5 unknown persons. Baba Pandey was armed with one sickle and one pistol. He had threatened the friends of Akshay Kate.

3) It prima facie appears that principal assailants were accompanied by 4 to 5 persons. Applicant was arrested on 14/04/2014. Post mortem notes would indicate that cause of death is 'Haemorrhagic shock due to fracture & injury to base of brain and brain stem, associated with rupture left jugular vein by sharp weapon'.

4) Specific role has been attributed to Akshay Padval and Baba Pandey. It is pertinent to note that charge-sheet was filed on 11/07/2014. Test identification parade was held on 13/08/2014 i.e. one month after filing of charge-sheet.

5) Learned APP has filed a report on record to substantiate that test identification parade was rather conducted after filing of the charge-sheet.

Statement of the eye witnesses was recorded thereafter. Learned APP submits that applicant has been identified in the test identification parade.

6) Learned counsel for the applicant rightly submits that in all probabilities, when the applicant was taken for remand or had been brought to the police station in the presence of the witnesses, he was seen by the witnesses and therefore identified at the test identification parade without assigning any specific role to the applicant.

7) In view of this, applicant against whom there is no other evidence, except test identification parade, deserves to be enlarged on bail. However, it is made clear that co-accused including Baba Pandey and Akshay Padval or any other accused shall not claim parity with the present applicant in any manner whatsoever and their applications are to be decided on their own merits.

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 the concerned police station on first Sunday of every month till the conclusion of trial.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)