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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.253 OF 2016

Satish Sudam Kale ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Satyavrat Joshi i/b. Smita Padole for the applicant.

Mr.Y.M. Nkahwa, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 14TH JULY, 2016

P.C. :-

1. The applicant / accused in Crime No.124/2014 for offences punishable under section 302, 201, 147, 148, 149 read with 34 of the Indian Penal Code registered with Sinhagad Police Station, Pune by this application is praying for releasing him on bail.

2. Heard the learned counsel for the applicant. He argued that the applicant Satish Kale was not present on the spot where Raju Siddram Panchal was killed. In support of his submission, the learned counsel relied on the statement of

Sachin Pol and Bhima Shedge. The learned counsel further argued that the alleged presence of the applicant at the earlier episode is not sufficient to implicate him for the offence punishable under section 302 of the Indian Penal Code.

3. The learned APP opposed the application by pointing out the F.I.R. and stating that there were several injuries on the deceased. The learned APP relied on the statement of Amrut and contended that the present applicant was with the co-accused and he had not taken any part in the murder of Raju Siddram Panchal.

4. Perused the charge-sheet. Raju Panchal (since deceased) after the day's work at his garage on 4th December, 2014 proposed Sagar Kadu to have a booz session. He paid Rs.500/- and sent one Amrut Shirgure for purchasing liquor. After considerable time, Amrut did not return with liquor. Hence Raju Panchal called Amrut. Amrut asked him to come to Canal side. Hence Raju Panchal and Sagar Kadu went there. He saw Amrut with few friends. As seen from the statement of Sagar as Raju Panchal abused one person from that group,

there was quarrel and the group started assaulting Raju Panchal.

5. Statement of Amrut is to the effect that when he went to purchase liquor, accused Sunil Hiwale and his friend took him to a Canal and detained him there. He called Raju Panchal near the Canal and when Raju and Sagar came there, on instructions of accused Sunil, accused persons including present applicant Satish Kale started assaulting Raju Panchal. Amrut thereafter fled away from the spot.

6. Sachin Pol is the witness who had seen the entire incident. His statement shows that when he was with accused persons, including Sunil, two persons came there. Thereafter, accused persons started assaulting one of those two persons i.e. Raju Panchal. As seen from statement of Sachin Pol, accused Sunil Hiwale stated to co-accused to take Raju Panchal to Rajyog Society. Accordingly, accused named Sonya Dedge, Ajit Maulani, Sudhir Shedge took Raju Panchal on motor cycle to Rajyou society. Sachin Pol also went there. It is seen from statement of Sachin Pol that near Rajyog Society, accused persons assaulted Raju Panchal by means of fist and

kick blows. Statement of Sachin Pol does not show that the present applicant accompanied accused persons to the place near Rajyog Society where deceased Raju Panchal was subsequently assaulted.

7. Charge-sheet shows that subsequently accused persons burnt their blood stained clothes.

8. *Prima facie*, it is seen that the incident in question happened at two places. Dead body of Raju Panchal was found in the well near Rajyog Society. The first incident occurred at Canal where the applicant was present. However, *prima facie*, it is seen that he was not present in the subsequent incident when Raju Panchal was murdered.

9. In this view of the matter, the applicant deserves to be released on bail during the pendency of trial. Hence the order :-

(i) The application is allowed;

(ii) The applicant / accused in Crime No.124/2014 for

offences punishable under section 302, 201, 147, 148, 149 read with 34 of the Indian Penal Code registered with Sinhagad Road Police Station, Pune be released on bail on executing P.R. bond in the sum of Rs.25,000/ with one or more sureties in the like amount;

- (iii) As a condition of this order, the applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (iv) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (v) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (vi) The application is disposed of accordingly.

11) BA253-16

(A.M.BADAR, J.)