

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.746 OF 2017
IN
CRIMINAL APPEAL NO.414 OF 2016

Hemant Pandurang Dabhekar.] ... Applicant

Versus

State of Maharashtra,] ... Respondents

Mr. Harshad Ponda a/w Mr. Santosh Avhad i/b Jayakar & Partners for Applicant.

Mr. J. P. Yagnik, APP for State.

CORAM :- RANJIT MORE &
SARANG V. KOTWAL, JJ.
DATE :- 12 JULY, 2017

P. C. :-

1. Heard Mr. Harshad Ponda, learned Advocate for the applicant and Mr. J. P. Yagnik, learned APP for State.

2. The applicant is the original accused no.2 in the appeal. He, along with 10 accused were charged for the offences punishable under Sections 120-B, 302, 149, 143, 148 of the IPC. By the impugned judgment and order in the above appeal, the applicant,

along with 5 accused, namely accused nos.1, 3, 4, 6 and 7, came to be convicted for the offences punishable under Sections 120-B, 302, 149, 143 and 148 of the IPC and were sentenced to suffer life imprisonment. So far as the accused no.5 is concerned, he is convicted under Section 201 of the IPC and sentenced to suffer R.I. for one year. The applicant is convicted and sentenced on the basis of the evidence of PW 1 Vijay Bhagwan Marne.

3. The FIR in the subject crime is registered on 11/01/2010 i.e. immediately after the incident in question, at the instance of PW 1. The first informant (PW 1) has not named the present applicant in the FIR. PW 1, however, in his evidence in para 12, has stated that on 10/03/2010, in the identification parade, he identified the present applicant along with accused Munna Shaikh. He has further elaborated that the present applicant, Datta Gole, Sharad Mohol and Yogesh Gurav fired bullets on the deceased from their firearms. His evidence also disclose that he was previously knowing the present applicant. If that be so, there is no reason why PW 1 did not take the name of the applicant at the time of the registration of the FIR.

4. During the pendency of the trial, the applicant was on bail. It is not the case of the prosecution that the applicant has misused the liberty or breached the conditions of bail. There is no other incriminating circumstance against the present applicant. The appeal is not likely to be heard in the near future. We are, therefore, of the opinion that the case is made out for bail.

5. During the pendency of the present appeal, the applicant be released on bail on executing P.R. bond of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
6. The applicant shall also abide by the terms and conditions imposed by the trial Court at the time of his release on bail. In addition to this, the applicant shall remain present at the time of final hearing of the appeal.
7. Bail Application is accordingly disposed of.

(SARANG V. KOTWAL, J.)

(RANJIT MORE, J.)