

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION No.1543 OF 2018

Dadasaheb Bhagwan Gunjawate & Ors. ... Applicants

Vs.

The State of Maharashtra & anr. ... Respondents

Mr.Abhaykumar Apte for the Applicant
Ms.M.H. Mhatre, APP, for the Respondent – State
Mr.S.R. Waghmare for Resp. No.2

**CORAM: Mr.S.S. SHINDE &
Mrs.MRIDULA BHATKAR, JJ.**

DATED: SEPTEMBER 19, 2018

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP appearing for the State assisted by Mr.Waghmare, Counsel for Respondent No.2.
2. The learned Counsel for the appellant submits that first information was given that unknown persons attacked the deceased Rajaram Sitaram Gunjawate. He submits that there was an inordinate delay in lodging the FIR. It is submitted that the evidence of the eye witnesses does not get support from the medical evidence inasmuch as when the suggestion was given to

the medical officer. He stated that the injury sustained by Rajaram are possible due to fall on the hard surface. He further submitted that even if the evidence of PW9, who is the wife of the deceased, is carefully perused, she did not state till the evening of the date of the incident anything about the role played by the appellants. It is submitted that the injuries sustained by the accused are not explained by the prosecution. It is submitted that the appellants were released on bail during the course of trial and, therefore, the appellants are entitled to be released on bail during the pendency of the appeal.

3. On the other hand, the learned APP appearing for the State invites our attention to the findings recorded by the trial Court and submits that the trial Court has discussed the evidence of the eye witnesses and recorded the finding that the evidence of the eye witnesses gets corroboration from each other and also from the medical evidence and other attending circumstances. She further submits that the clothes of the accused were sent to the C.A. The blood stains of blood group of the deceased were found on the clothes of the accused.

4. We have given a careful consideration to the submissions of the learned Counsel for the appellant and the learned APP for the State and also perused the notes of evidence and in particular, the statements of the eye witnesses and also the medical evidence. Upon perusal of the findings recorded by the trial Court, prima facie, it appears that the trial Court has discussed the evidence of the eye witnesses and also the medical evidence and concluded that the ocular evidence gets corroboration from the medical evidence and other evidence brought on record by the prosecution. As already observed, we have perused the evidence of the eye witnesses and in particular, the evidence of Vitthhal Gunjawate and Tulashiram. Their evidence corroborates each other and also gets corroboration from the medical evidence. The injuries noticed by the medical officer unequivocally indicates that those injuries are sustained by a sharp weapon. It is not necessary for us to elaborate the reasons since the appeal filed by the appellant is pending. Suffice it to say that the finding recorded by the trial Court appears to be in consonance with the evidence brought on record by the prosecution.

5. Hence no case is made out to entertain the application to release the appellant on bail during the pendency of the appeal. Accordingly, the application stands rejected. Hearing of the appeal is expedited.

6. The observations made hereinabove are prima facie in nature and confined for adjudication of the present application only.

(MRIDULA BHATKAR, J.)

(S.S. SHINDE, J.)