

Sequeira

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

**CRIMINAL APPLN. No.303 of 2018
in
CRIMINAL APPEAL NO. 417 OF 2016**

Rakesh Ashok Deshmukh and another ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.S.R.Pasbola a/w Bhavesh Thakur & Ms.Rekha Karande i/b
Mr.Rahul Arote, for Applicants.

Ms.M.H.Mhatre, APP for Respondent- State.

***CORAM : S. S. SHINDE &
MRS.MRIDULA BHATKAR, JJ.
Date : September 21, 2018.***

P.C. :

Heard learned counsel appearing for Applicants and
learned APP appearing for the State.

2. Learned counsel appearing for Applicants submits that the Applicants were released on bail during the trial. He further submits that if the evidence of PW.1 is carefully perused, no any specific role is assigned to present Applicants. He further submits that the evidence of PW.1 is very weak. He submits that PW.1 and also PW.10 are interested witnesses in as much as the Accused No.6-

Sukesh Suresh Dangat has filed the complaint against PW.1. He further submits that the sister of PW.1 has eloped with the Accused No.5-Sachin Chandrakant Dangat. He invites our attention to the order passed by this Court releasing the Accused No.2-Ankush Jyotiram Pawar on bail. He invites our attention to the cross-examination of PW.1 so as to invite our attention to the fact that there was enmity between the PW.1 on one hand and Accused Nos.5 and 6 on the other hand. He further invites our attention to the evidence of PW.10 and in particular paragraph 8 and 9 of the cross-examination and submits that PW.10 did not know all other accused except Accused No.5. Therefore, he submits that Applicants deserve to be released on bail during the pendency of bail. On the other hand, learned APP appearing for the State invites our attention to the deposition of PW.1 and PW.10 and also medical evidence and submits that the evidence of PW.1 gets corroboration from the medical evidence and also from the evidence of PW.10. It is submitted that incident had taken place in the Court premises and therefore, it is necessary to scrutinise the evidence carefully and consider the prayers of the Applicants keeping in view the findings recorded by the trial Court while convicting the Appellants.

3. We have given careful consideration to the submissions of the learned counsel appearing for Applicants/Appellants and also learned APP appearing for the State. We have carefully perused the evidence of PW.1. He has implicated the present Applicants. It

appears that present Applicants restrained the PW.1 and also PW.10 while rescuing the deceased Rahul Rajendra Nair while assault was given by the Accused No.5 Sachin Chandrakant Dangat. Even if we take it that the Accused No.6 has filed the complaint against the PW.1, in that case also we cannot brush aside the evidence of PW.1 who has witnessed the incident. The case of Accused No.2 stands on different footing *vis-a-vis* the evidence available as against present Applicants in as much as the Police Constable has stated that the Accused No.2 was in the office of the Public Prosecutor after 2.00 p.m. and his evidence was recorded in between 12.30 to 2.00 p.m. before the Court on the relevant date. While allowing an application of Accused No.2, it is observed that, he has approximately spent eight years period in jail. Since Applicants are convicted for the offence punishable under section 302 read with section 149 of the Indian Penal Code, in our opinion, at this stage of hearing the Application for bail, it is not desirable to segregate the role of the Accused. It is also relevant to mention that accused have committed serious offence in the premises of the Court. We do not wish to elaborate the reasons since the appeal filed by the Appellant is pending for consideration. For the reasons aforesaid, we are not inclined to entertain the Application. Hence, Application stands rejected.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)