

JPP

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

***CRIMINAL APPLICATION NO. 321 OF 2018
IN
CRIMINAL APPEAL NO. 896 OF 2018***

Mr. Santosh Bajirao Salve.

...Applicant/Appellant.

V/s.

The State of Maharashtra.

... Respondent.

Mr. Keshav Chavan for the Applicant/Appellant.

Mr. H.J. Dedhia, APP for the State.

***CORAM : S.S. SHINDE AND
MRS. MRIDULA BHATKAR, JJ.***

DATE : 25th SEPTEMBER 2018

P.C. :

Heard the learned Counsel appearing for the Applicant and the learned APP for the State.

2. The learned Counsel appearing for the Applicant submits that there was no pre-meditation. Even if the prosecution case is considered as it is that the Appellant gave blow of wooden log on the head of the deceased Mr. Ajay Gawand, the same was under

sudden provocation without any intention. It is submitted that, there were other three persons at the place of the incident and therefore alleged offence cannot be attributed only to the Appellant. It is submitted that it is not the case of the prosecution that the Appellant came prepared possessing weapon and assaulted deceased Ajay Gawand. It is submitted that the Applicant is in jail for last four years. Therefore, he may be released on bail by suspending the substantive part of sentence.

3. The learned APP appearing for the State has drawn our attention to the findings recorded by the Trial Court and also the notes of evidence and submitted that, the Trial Court has recorded the categorical findings that the Appellant had given blow of wooden log on backside of head of deceased Ajay Gawand and as a result he died due to fatal injury to the brain.

4. Heard learned Counsel for the Applicant and the learned APP for the State, perused the notes of evidence and the findings recorded by the Trial Court and in particular, in paragraph 27 of the judgment and we are of the prima-facie opinion that the findings recorded by the Trial Court are inconsonance with the evidence brought on record by the prosecution. The evidence of prosecution witnesses shows that the Applicant gave blow by wooden log on the head of the deceased Ajay Gawand and after he fell down, further

blows were given by the accused. Since the Appeal filed by the Appellant is pending, it is not desirable to elaborate reasons on the merits. Hence, the Application stands rejected.

5. In case, the Appeal is not taken up for final hearing within one year from today, liberty to apply for a bail afresh.

(MRS. MRIDULA BHATKAR, J.)

(S.S. SHINDE, J.)

Jyoti
Prakash
Pawar

Digitally
signed by
Jyoti Prakash
Pawar
Date:
2018.09.27
15:39:00
+0530