

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.763 OF 2017

WITH

CRIMINAL APPLICATION NO.1299 OF 2017

Akshay @ Sonu Gautam Jagdhane.] ... Appellant

Versus

The State of Maharashtra.] ... Respondent

Mr. Jagdish Shetty i/b Ms. Dharini N. Nagda for Appellant.

Mr. B. A. Lawate for Applicant in Criminal Application No.1299 of 2017.

Mrs. M. H. Mhatre, APP for State.

CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.

DATE :- 07 JUNE, 2018

P. C. :-

1. The present Appeal challenges the order passed by the learned Additional Sessions Judge, Baramati, dated 10/03/2017, thereby rejecting the application for bail filed by the present Appellant. The Appellant, along with the other accused, has been charged for hatching the conspiracy of kidnapping the deceased.

2. The Appeal is vehemently opposed by Mr. B. A. Lawate, learned Counsel appearing on behalf of the complainant, on the ground that the relatives of the Appellant are making an attempt to threaten the witnesses.

3. Undisputedly, the charge-sheet in the present matter is already filed. The perusal of the charge-sheet would reveal that the only incriminating circumstance against the present Appellant is a memorandum under Section 27 of the Indian Evidence Act, leading to recovery of the knife.

4. The incident is alleged to have taken place on 15/03/2015. The Appellant has been arrested after a period of one year and four months on 13/07/2016. The alleged memorandum is of 16/07/2016. The case is based entirely on circumstantial evidence.

5. At this stage, the detailed elaboration of the evidence will have to be avoided. However at the cost of repetition, it can be said

that the only incriminating circumstance against the Appellant is a memorandum under Section 27 of the Indian Evidence Act and the consequential recovery of knife.

6. Insofar as the allegation by the learned Counsel for the complainant regarding influencing the witnesses is concerned, undisputedly, there are no eye witnesses to the incident and the case rests only on circumstantial evidence. As such, we do not find much substance in such submission. In any case, the said aspect can be taken care of by directing the Appellant not to enter Pune district during the trial, except as and when he is required to attend the Court proceedings.

7. In that view of the matter, the Appeal is allowed in the following terms.

ORDER

- (i) The Order passed by the learned Additional Sessions Judge, Baramati, dated 10/03/2017, is quashed and set aside.

- (ii) The Appellant is directed to be released on bail on furnishing bail bond in the sum of Rs.15,000/- with one or more sureties in the like amount.
- (iii) The Appellant shall not enter Pune district during the pendency of the trial, except as and when he is required to attend the Court proceedings.
- (iv) The Appellant undertakes to reside within the jurisdiction of Ghatkopar Police Station and to furnish the present address to the learned trial Court, the Investigating Officer as well as Ghatkopar Police Station and report to the said police station on 1st and 3rd Monday of every month.
- (v) All miscellaneous applications are disposed of.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)