

Sequeira

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

CRIMINAL APPLICATION NO. 1205 OF 2018

Raju Ashok Nagare ... Applicant
Vs.
The State of Maharashtra ... Respondent

**in
CRIMINAL APPEAL NO. 692 OF 2016**

Ashok Deoram Nagare & Ors. ... Appellants
Vs.
The State of Maharashtra ... Respondent

Mr.Niteen Pradhan a/w Mr.Aditya Lasaria, for the Applicant.

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

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

Date : September 3, 2018.

P.C. :

This Application is filed under section 389(1) of the Code of Criminal Procedure taking exception to the judgment and order dated 19 September 2016 passed by the learned Additional Sessions Judge Nashik in Sessions Case No.303 of 2014.

2. The Applicant-accused has moved this Application for bail and suspension of the sentence. The incident of murder of Sagar Dattu Jadhav has taken place on 25 July 2014. The learned counsel for the Applicant-accused No.7 has submitted that there is no sufficient evidence against Applicant-accused. He pointed out evidence of P.W. No.1 -Suman Dattu Jadhav, mother of the deceased and also pointed out the evidence of PW.8-Sonu Satyavan Bidlan and submitted that there is a discrepancy in the evidence of these two alleged eye-witnesses attributing the role to the present Applicant-accused. It is submitted that prosecution witness in her evidence has stated that Accused No.6 has stabbed her son with knife and she did not give any role to the Applicant-accused No.7. It is submitted that there is no sufficient credit-worthy evidence to convict the accused under section 302 read with section 149 or 34 of the Indian Penal Code.

3. The learned APP pointed out that the case of the prosecution is based on evidence of eye-witnesses i.e. PW.1 – Suman Dattu Jadhav, PW.8-Sonu Satyavan Bidlan, PW.9-Mahendra Shankar Waghmare and PW.11-Mangesh Dattu Jadhav. Learned APP further submitted that, there is consistency in the evidence of PW.9, PW.8-Sonu Bidlan and PW.11-Mangesh, who have attributed a specific role to the Applicant-accused that, he took out the knife and inflicted injuries to the left side of the chest of Sagar. Learned APP submitted that the discrepancy in the evidence of PW.1-Suman is not material

but there is role of stabbing attributed to one of the accused and there is no specific mention by name while attributing the role. In such circumstances, the learned APP submitted that the Applicant-accused is rightly convicted in the trial Court and accused was not on bail throughout the trial. Learned APP also relied on discovery panchanama of the knife at the instance of Applicant-accused and also the Postmortem report. He further pointed out that this Court earlier by order dated 11 September 2017 has rejected the Bail Application of co-accused Sanjay Ashok Nagare who was assigned the role of a lesser degree than the present Applicant-accused.

4. Perused the evidence of the respective witnesses, so also the order passed by this Court in Criminal Application No.724 of 2017 of accused Sanjay Nagare. At this stage we are of the view that there is sufficient evidence of the eye-witnesses against the Applicant-accused and said substantive evidence gets corroboration from the medical evidence and other attending circumstances, and therefore it is not a fit case to grant bail. Hence application stands rejected.

(MRS.MRIDULA BHATKAR, J.)

(S. S. SHINDE, J.)

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