

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.1220 OF 2018
IN
APPEAL NO.72 OF 2016

Dhanaji Raghunath Dhaygude .. Applicant
Versus
State of Maharashtra .. Respondents

Mr. Kedar J. Patil for applicant
Mrs. M.M.Deshmukh, APP for State

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

DATE : 8th August 2018.

P.C.

This is an application for suspension of sentence and grant of bail during the pendency of appeal.

2] Originally four accused were tried for offence punishable under section 302 of IPC for causing death of Namdev Dhayagude father of Witness No.1 Ashok Dhayagude.

3] In view of the law laid down by the Apex Court in the case of Niranjn Singh and Anr. Vs. Prabhakar Rajaram Kharote, reported in

[(1980) 2 S.C.C. 559], detail elaboration of evidence at this stage will have to be avoided.

4] For the same incident, two cross complaints were lodged. In the same incident all the accused have also received injuries. Accused No.4 has suffered a fracture. The injury sustained by the deceased is of a single blow. The evidence of prosecution witness would itself reveal that when the present appellant arrived at the scene, he was not carrying any weapon. However, during the quarrel, the weapon was given to him by accused No.4. On the basis of same evidence the learned trial court has acquitted remaining three accused. The accused/applicant is behind bars for a period of more than five years. Prima facie, we have doubt as to whether conviction under section 302, accepting the prosecution case as it is, would be tenable or not.

5] In view of the huge pendency of the appeals, there is no possibility of the appeal being heard in the near future. In that view of the matter, we are inclined to allow the application.

6] The application is allowed. The order of sentence is suspended. Applicant 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.

(SARANG V.KOTWAL, J)

(B.R.GAVAI, J.)

Yogeshwar
Bhalchandra
Gokhale

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Yogeshwar
Bhalchandra Gokhale
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