

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

**CRIMINAL APPLICATION NO.362 OF 2019
IN
CRIMINAL APPEAL NO.113 OF 2017**

Shekhar Babasaheb Shinde		Applicant (Accused no.2)
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Shailesh Dhananjay Chavan for the Applicant.

Mr. S.S. Pednekar, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 24th June 2019

P.C.:

1. Heard the respective counsel.
2. This is an application under Section 389 Code of Criminal Procedure. The applicant herein is convicted for the offence punishable under Section 307 read with 34 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for ten years and fine of Rs.10,000/-, in default to suffer simple imprisonment for six months by the learned Additional Sessions Judge, Ratnagiri vide judgment and order dated 23rd January 2017 in Sessions Case No. 32 of 2014. Hence, this application seeking suspension of substantive sentence.

3. It is a matter of record that after conviction, the applicant was absconding and not traceable for almost two years and therefore his earlier applications were rejected. It is informed at the bar that the applicant is in custody since December 2018.

4. It appears from the records that the original accused no.1 in Sessions Case No. 32 of 2014, one Rohit Ramchandra Bhoite has some friendship with the victim PW-3. She had refused his proposal for marriage. They all hailed from village Humgaon, Taluka Javali, District Satara. She was studying in Ambav College in Ratnagiri and was residential student. On the date of the incident, i.e. on 6th August 2014, while she was proceeding with her friends, both the accused had come on a motorcycle. Accused No. 1, Rohit Bhoite had apprehended her, twisted her hand and stabbed her with a knife and then fled on the motorcycle of the present applicant. The present applicant was apprehended by a Constable, PW-10 attached to Sangmeshwar Police Station. He was arrested and taken into custody. PW-3, the victim has not attributed any role to the present applicant.

5. Learned APP submits that on 6th February 2018, the application for bail was argued before this Court and the Court had

directed the applicant to surrender. However, the learned counsel for the applicant has submitted that he had no knowledge about the whereabouts of the applicant. As on today, the accused no.1 has not surrendered to the custody of the Police and the applicant has been arrested in December 2018 and is still in custody.

6. Learned counsel for the applicant submits that in fact on the day of the incident, accused no.1 had informed the present applicant that he is only going to meet his girl-friend and therefore, he had accompanied him. The applicant had no knowledge that accused no.1 was carrying the knife with him and that he would stab PW-3 with the said knife. It is, in these circumstances, that after his friend had stabbed PW-3, the applicant was scared and had fled from the scene, out of fear.

7 Taking into consideration the age of the applicant and the role attributed to him, this Court is inclined to enlarge the applicant on bail on imposing certain conditions.

8 It is made clear that the original accused no.1 Rohit shall not claim parity with the present applicant, as the role attributed to both the accused are different. Hence, the following order :

ORDER

- i) The application is allowed and stands disposed of.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 23rd January 2017 by the learned Additional Sessions Judge, Ratnagiri is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount. The sureties shall be from Satara.
- iv) The applicant shall not reside in Satara district till 30th June 2020, thereafter the applicant is at liberty to file an application seeking relaxation of condition.
- v) The applicant shall mark his presence before the Sessions Court at Ratnagiri once in three months on the date assigned by the learned Sessions Judge, Ratnagiri. Upon failure to attend any two consecutive dates, the Sessions Court shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.
- vi) The applicant shall inform Deorukh Police Station, Ratnagiri as well as Satara Taluka Police Station about the place of his residence and his contact number till 30th June 2019.

(Smt. Sadhana S. Jadhav, J)