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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 48 OF 2019**

Appaso Shankar Shahapure

.....Applicants

V/s.

The State of Maharashtra

.....Respondent

WITH**CRIMINAL APPLICATION NO. 96 OF 2019****IN****CRIMINAL BAIL APPLICATION NO. 48 OF 2019**

Sheetal Bhupal Nargude

....Intervener

IN THE MATTER BETWEEN

1. Appaso Shankar Shahapure

.....Applicants

2. Sachin @ Balu Appaso Shahapure

V/s.

The State of Maharashtra

.....Respondent

Mr. Shekhar A. Ingawale advocate for the applicant

Mr. Manoj Patil for Intervener

Ms. S. S. Kaushik APP for the State

Mr. Rajendra Shankar Ugalmugale, Kurundwad Police Station

CORAM : NITIN W. SAMBRE, J.**DATE : JANUARY 22, 2019.**

P.C.

Applicants are seeking regular bail in Crime No. 94/2018 registered with Kurundwad Police Station, Kolhapur for offence punishable under sections 302, 504, 506 r/w 34 of the Indian Penal Code.

2 Apart from the ground of parity in view of the order dated 18/12/2018 passed in Bail Application No. 3171/2018 in respect of co-accused namely Ramchandra and Sandeep, the learned counsel for the applicant submits that the criminal intention on the part of applicants also cannot be inferred as applicants were never intending to commit murder. So as to substantiate his contentions, he has relied upon the language of the order dated 18/12/2018 granting bail to the co-accused. The learned counsel as such submits that applicants, even if are attributed specific role are entitled to be released on bail.

3 The prayer is opposed by the learned APP who is assisted by the learned counsel for the complainant. It is informed that the order dated 18/12/2018 passed in Bail Application No. 3171/2018

is subject matter of challenge in an SLP. Apart from above, it is claimed that eye witness Dilip in his statement dated July 18, 2018 has specifically named the present applicants with an active role in the commission of crime.

4 Needless to say that order dated 18/12/2018 has considered the issue as regards the intention of the accused persons to commit crime in question, particularly other co-accused to whom the alleged eye witness Dilip has not seen with an active role in the crime in question.

5 If the contention of the learned counsel for the applicants is appreciated, what is noted from the charge-sheet is the statement of eye witness was recorded on July 18, 2018 for the incident dated May 30, 2018. For recording delayed statement after more than 6 weeks of an eye witness, no convincing explanation is coming forward.

6 Apart from above, it is claimed that the alleged incident was witnessed by the eye witness in the wee hours i.e. around 3.30 a.m.

in the morning. This itself creates doubt as regards witnessing the incident of assault by the applicants in dark hours.

7 In the wake of above, in my opinion, applicants have made out case for grant of bail. Hence, following order:

(A) Applicants be released in Crime No. 94/2018 registered with Kurundwad Police Station, Kolhapur on furnishing P.R. bond in the sum of Rs. 25,000/- each with one or more sureties in the like amount.

(B) Applicants shall attend all the dates before the Trial Court unless precluded for medical reasons.

(C) Applicants shall not influence the witnesses or tamper with evidence.

8 Application stands disposed of.

[NITIN W. SAMBRE, J.]