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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.182 OF 2019

Ganesh Prakash Shingate

..Applicant.

V/s.

State of Maharashtra

..Respondent.

Mr.Ajay Dinode with Mr.Mahesh Godse i/b. Kirankumar Phakade
for the applicant.

Mr.N.B.Patil, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 6, 2019

P.C.:-

Heard learned counsel for the applicant and learned
APP for the State.

2. The applicant came to be arrested on August 24, 2017
in crime No.224/2917 for offence punishable under sections 302,
326, 109, 216 120B read with 34 of the Indian Penal Code
registered with Koregaon police station, District Satara and was
charge-sheeted.

3. The prosecution case is, the applicant, accompanied

main accused namely, Aditi Shinde and Arjun Dere and aided them in the murderous attack on deceased Shambhu Barge resulting in his death in the hospital. The role attributed to the applicant is transporting the main accused to the said spot of the incident and after executing the assault, facilitated the fleeing away of the two accused.

4. Learned counsel for the applicant submits that after his arrest on August 24, 2017, the applicant came to be charge-sheeted. There are three statements of the complainant and all goes contradictory to each other. As such, the same are not reposing confidence in the theory put forth by the prosecution. According to him, the main accused Jaywant Pawar was initially not booked and charge-sheeted. However, he was later-on released on pre-arrest bail. Learned counsel then would urge that a limited role is attributed to the applicant of riding a motor cycle. However, there is absence of specific attributions of active participation in the crime in question. Learned counsel then, would urge that of the total accused, seven accused who have not played any active role in the participation in the crime are already ordered to be released on bail. Accordingly, based on the principle

of parity, the applicant is entitled for similar relief.

5. Learned APP submits that apart from the statement of eye witnesses Amit and Vishal, it could be inferred from the investigation that there was a conspiracy and the applicant was knowing that he is carrying the main accused Aditya and Arjun with an intention to commit serious offence of murder. A submission is also made that there is discovery of motor cycle at the behest of the applicant and the learned APP has tried to distinguish the case of the applicant from that of other co-accused so as to reject the submission of claiming parity.

6. Having considered the submissions, what is required to be noticed is, prior to the incident in question, there was quarrel between Shubham More and group of applicant who carried differences further. It is claimed that out of political rivalry, Shambhu came to be murdered by Aditya and Arjun with the aid of other accused persons, including the applicant.

7. So far as accused Jaywant Pawar and seven other accused who were ordered to be released on bail are concerned, their involvement is to the extent of conspiracy under section 120B or 34 of the Indian Penal Code.

8. So far as the case in hand is concerned, it is apparent from the statement of the witnesses and the material gathered during the investigation that the applicant accompanied the main accused persons to facilitate their transport to the scene of offence, permitted these two accused to execute the offence and then fled away on his motor cycle along with these two accused persons.

9. From the said conduct of the applicant, the very intention of the applicant is apparent of commission of serious crime of murder pursuant to a conspiracy hatched.

10. That being so, the case of the applicant cannot be treated at par with that of the other accused persons.

11. Apart from above, there is sufficient material on record to infer *prima facie* involvement of the applicant with intention to commit a serious crime. That being so, the application fails and is rejected.

12. If the charge is not framed against the applicant within one year from today, liberty to approve afresh.

(NITIN W. SAMBRE, J.)