

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

**CRIMINAL APPLICATION NO.507 OF 2019
IN
CRIMINAL APPEAL NO.55 OF 2014**

Anil Dukhi Singh

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Ganesh Gole i/b Mr. Ateet Shirodkar for the Applicant/Appellant.
Mr. J. P. Yagnik, APP for the Respondent/State.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.
DATE : 14/08/2019.**

P.C.:

. Heard at some length. Learned counsel for applicant/accused No.2 pointed out that accused No.1-Sikander @ Sikka Ibrahim Shaikh is given bail by this Court on 20/2/2019 in Criminal Application No.1171/2015 and evidence against him and the present applicant is identical.

2. Our attention is also invited to the fact that PW-13 in cross examination has specifically stated that eye witnesses were with him at Nalasopara in hotel Dwarka for taking lunch. After the incident they received a phone call and they left for the spot. This evidence has not been appreciated by the Trial Court. It is further pointed out that PW-18 had written two letters which also support this fact that eye witnesses were not present at the spot. These two letters are written to accused persons who were in jail at that time. Though PW-18 has denied handwriting and

signature upon it, handwriting expert has opined that letters are written by PW-18. It is also pointed out that accused No.3 is absconding and only one revolver can be traced out. The prosecution could not establish connection of that revolver with the crime.

3. Deceased Pravin was a political leader with many enemies and Siddharth happened to be one of them. In this situation, the accused persons have been implicated in false case by PW-16 to PW-19.

4. Learned APP is strongly opposing the grant of bail. He submits that eye witnesses pointed out use of revolver by the present applicant as also by absconding accused. Revolver traced out at the instance of accused No.1 could not be connected with the offence. However, it shows that some other weapon was used. Hence, the involvement of present applicant is rightly held to be established, by the Trial Court. It is further submitted that PW-13 was examined on limited aspect and in cross he has chosen to say something in favour of accused persons. No much importance can be attached to that deposition. It is submitted that State Government has also filed appeal in the matter and it has been admitted for final hearing on 20/2/2019 only.

5. We have perused order dated 20/2/2019. This Court has looked into the evidence available on record including the evidence of eye witnesses. Trial Court has disbelieved two eye witnesses. However, it has accepted the other two. The statement made by PW-13 in cross examination that at the time of incident, eye witnesses were taking lunch with him at hotel Dwarka has not been considered by the trial Court at all. Not only this PW-18 has also written two letters and in it he placed on record some facts indicating false implication of accused persons.

6. Revolver seized at the instance of applicant No.1 (accused No.1) could not be associated with the crime. However Ballistic Expert has not opined about number of weapons used for firing on deceased. One of the accused persons is already absconding.

7. In this situation, as main accused viz., accused No.1 has been given bail, we are also inclined to release present applicant on bail on the following terms and conditions:

(a) The applicant shall execute personal bond in the sum of Rs.20,000/- before the trial court for proper behaviour and for remaining present on due dates before the Court in the present matter with two independent sureties in the like amount;

(b) He shall give address at which he shall always be available during the pendency of this appeal along with his contact numbers;

(c) Similar details in relation to his sureties shall also be furnished;

(d) He shall not in any way directly or indirectly attempt to contact or pressurize either complainant or any of the witnesses in the matter;

(e) He shall keep vakalatnama of his advocate alive and valid till the appeal is finally decided by this Court and shall not be entitled to any fresh notice at the stage of final hearing;

(f) He shall report to the Superintendent/Registrar of Sessions Court, Vasai on first working Monday in every two months as a condition of his release;

(g) His failure to observe any of the terms and conditions shall entitle

the respondent State to take him in custody forthwith;

(h) Application is accordingly allowed and disposed of.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)