IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 521 OF 2019
IN
CRIMINAL APPEAL NO. 1438 OF 2018

Bharat Ramdas Dhokrat ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Vikas Shivarkar for the applicant.

Mr.J.P. Yagnik, APP for the respondent State.

CORAM : B.P. DHARMADHIKARI &
SMT.SWAPNA JOSHI, JJ.
DATE : JUNE 27, 2019

P.C.:

Heard learned counsel for the applicant/original accused no. 1 and learned APP.

2. Police in investigation found DNA of accused no. 2 on the spot. Not only this, handle of weapon used for inflicting fatal injury was seen on spot. Its blade was recovered at the instance of accused no. 2. Even the ornaments of deceased wife of accused no.1 have been recovered from accused no. 1.

3. Learned counsel for accused no. 1 does not dispute these facts at this stage. He submits that the applicant and his wife were returning home when four persons accosted them. The

applicant was tied to a tree and deceased wife was taken behind the bushes. The applicant could somehow un-tie his one hand and with it he made a phone call to his father and informed the incident. Father then called others on phone. In the meanwhile, one of the accused person returned to the place where the applicant was tied, removed his mobile and again tied the applicant properly. Submission is the applicant therefore, has got no role in the matter at all.

4. Learned counsel fairly states that according to prosecution, accused no. 1 eliminated his wife with the assistance of accused no. 2. The CDR records and other material brought on record through Nodal officer for the said purpose, does not connect the accused no.1 with accused no. 2 at all. Learned counsel points out that it is the case of prosecution that the present applicant has loose character and the second mobile on which contacts have been made frequently does not belong to accused no.2 but to his wife.

5. Learned APP submits that the material on record shows part played by accused no. 2. The CDR records reveal frequent conversations by accused no.1 with accused no. 2. He relies upon the evidence of Nodal Officer and certificates provided by him to urge that though mobile belonged to the wife of accused

no.2, it was being used by accused no.2 only.

6. We have heard respective counsel. Considered the material on record. Not only this, gutka and other material found on spot is seen to contain DNA of accused no. 2.

7. In this background, the frequent calls from the mobile of the present applicant to mobile of accused no. 2 have been rightly looked into by the trial court to infer conspiracy.

8. We are not inclined to release the applicant on bail at this stage. Hence, Application is rejected.

(SMT.SWAPNA JOSHI, J.) **(B.P. DHARMADHIKARI, J.)**