

22.8.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 706 OF 2019
IN
CRIMINAL APPEAL NO. 675 OF 2019

Dayanand Gopinath Shinde

and anr.

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. Satyam Nimbalkar, Mr. Hrishi Ghorpade, Advocate
for the applicants.

Mrs. M.H. Mhatre, APP for the respondent-State.

CORAM : B.P. DHARMADHIKARI, &

SANDEEP K. SHINDE, JJ.

Thursday, 22nd August, 2019.

P.C. :

1. Original Accused no.5-Sanjay and accused no.7-Dayanand are seeking bail on the ground of

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parity. By order dated 31st January, 2019, one Rajesh-accused no.2 was given bail by this Court. Then on 28th February 2019, accused no.6-Shekhar has been given bail. On 16th April 2019, accused no.3-Rupesh and on 4th July 2019, accused no.4-Datta have been enlarged on bail.

2. Contention of learned Counsel for applicants is, case of applicants, Sanjay and Dayanand is not different. He submits that, at earliest possible opportunity, P.W.1 has not disclosed identity of accused persons to police.

3. Learned APP has submitted that, P.W. Amol who is injured witness, as also, an independent person, P.W.2-Jeetendra have named accused persons. Our attention is also drawn to inquest panchanama to show that P.W.1, then, has disclosed that assailants were from his area only.

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4. The depositions of P.W.1, injured witness-Amol and that of P.W.2-Jeetendra is slightly contrary. He states that, accused nos.1 and 2 came on Yamaha Motorcycle while accused nos.3 to 7 were occupying Esteem Car. Thus, the present applicants were in a car. P.W.2 who has been examined as an eye-witness states that, accused no.7-Dayanand arrived in Esteem Car while accused no.5-Sanjay was on Motorcycle. Inquest Panchanama mentions disclosure to Police by P.W.1 that some boys from his locality attacked his brother, deceased Suresh with sharp weapons.

5. Learned APP is right in urging that, this statement recorded in Inquest Panchanama does not imply that Amol was not knowing the names of assailants.

6. However, inconsistent material (supra)

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and other evidence has been looked into initially on 28th February, 2019 and thereafter others have also been released on bail. The applicants have also put in about ten years in prison.

7. In this situation, we are inclined to release the applicants on bail on following terms and conditions :

i) The substantive sentence imposed upon the applicants- Dayanand Gopinath Shinde and Sanjay Siddaram Kamble the impugned Judgment and order dated 9/11/2012 passed by the learned Additional Sessions Judge in Sessions Case No.703/2010 shall stand suspended till the final disposal of the appeal and the applicants shall be enlarged on bail in the sum of Rs.25,000/(Rupees Twenty Five Thousand Only) with one or two

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local solvent sureties in the like amount.

ii) The bail is granted subject to the condition that the applicants will furnish detailed address of their place of residence where they propose to reside after they are enlarged on bail and contact telephone/Cell number to the concerned Jail Superintendent.

iii) The bail is granted subject to condition of the applicants reporting to the concerned Trial Court at 11.00 a.m. on first Monday of every January and July of every calender year till the disposal of appeal.

iv) If the applicants fail to report to

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the Trial Court as aforesaid, the Trial Court shall immediately submit a report to that effect to the Registrar (Judicial-I) of this Court who shall immediately place the report before the concerned Court.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)