

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

**CRIMINAL APPLICATION NO.900 OF 2019
IN
CRIMINAL APPEAL NO.894 OF 2017**

Avinash Mahadeo Ghodke

...Appellant

vs.

The State of Maharashtra

...Respondent

Ms. Nagma Tandon for the Appellant.
Mr. J. P. Yagnik, APP for the Respondent.

**CORAM : B. P. DHARMADHIKARI &
MRS. SWAPNA S. JOSHI, JJ.
DATE : 22/07/2019.**

P.C.:

. Original accused No.2 is before this Court seeking bail. It appears that on 13/6/2018 his Criminal Application No.1748/2017 was disposed of as withdrawn with liberty to approach again if the appeal was not heard within a period of one year. Accordingly, the present application has been filed soon after expiry of that period of one year.

2. Submission is presence of so called eye witnesses PW-1 and PW-2 at spot is itself doubtful. PW-1 and PW-2 are close relatives of deceased and therefore highly interested. They have accordingly deposed but then PW-1 indirectly accepted that when she reached the spot her husband (deceased) was already lying on ground. Contention is if their submission is to be accepted, there should be blood trail from the spot of attack till residence of deceased Santosh. However, no blood trail was seen at the spot. PW-1 has claimed that in an attempt to save Santosh she

received blow of scythe on middle finger of her right hand but, then this contention is not supported by medical evidence. She also submits that present applicant pushed her away thereby she suffered some injury to her shoulder. Submission is again this version cannot be accepted.

3. Learned APP relies upon evidence of PW-1 and PW-2 as also Doctor(PW-21) to show that said Doctor supports the presence of PW-1 on spot. He further submits that blood stained clothes were seen on person of accused applicant at the time of his arrest. Blood group of deceased was “O” and that blood is found on clothes of accused.

4. Learned counsel for the applicant in reply adds that witness to alleged seizure of clothes from applicant has turned hostile. Doctor who examined PW-1 did not enter witness box.

5. We have perused the order dated 13/6/2018 in Criminal Application No.1748/2017. In the said order, this Court has recorded that after hearing respective counsel for some time when the Court expressed that it was not inclined to allow the application, at that time permission to withdraw was sought and the same came to be granted with leave to renew the request for bail after one year, in case the appeal is not heard within one year.

6. The order therefore shows that in absence of change in circumstance, second bail application should not have been preferred. In any case we have looked into merits of the matter and material on record prima facie connects the present applicant with the crime. PW-1 and PW-2 have pointed out the role played by the present applicant. The application is therefore rejected.

(MRS. SWAPNA S. JOSHI, J.)

(B. P. DHARMADHIKARI, J.)