

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 921 OF 2019
IN
CRIMINAL APPEAL NO. 1328 OF 2018

Amjad Katubuddin Makrani

... Applicant

Versus

The State of Maharashtra

... Respondent

Dr. Yug Chaudhary a/w Adv Payoshi Roy i/by Mrs. Aisha Ansari for the appellant.

Mr.H.J. Dedhia, APP for the respondent State.

CORAM : B.P. DHARMADHIKARI &
MRS.SWAPNA JOSHI, JJ.
DATE : JULY 05, 2019

P.C.:

Accused no. 4 has moved the present application seeking bail. This court has on 18/3/2019 allowed similar request moved vide Criminal Bail Application No.1947 of 2018 by accused no. 3 Dinesh. The facts relating to the offence are recorded by us in that order.

2. After hearing Advocate Chaudhary for accused no. 4 and learned APP Mr. Dedhia, it appears that the ground of non examination of Iqbal who was accompanying the deceased at the time of attack also is attracted here.

3. PW 3 brother of deceased and eye witnesses has attributed him role of obstructing PW 3 from going to help the deceased when accused nos. 1, 2 and 3 were assaulting him. PW 3 claims that accused no. 4 then beat him with fists and kicks.

4. The other eye witnesses namely 4, 5 and 6 gave the entirely different role to accused no. 4. They do not claim that accused no. 4 assaulted PW 3. They point out that accused no. 4 assaulted the deceased.

5. Cross of PW 4 shows that PW 4, 5 and 6 got time to deliberate and then had decided further course of action. Submission of applicant/accused no. 4 is during these deliberations, a story to implicate him has been fabricated.

6. It is not in dispute that no weapon or blood stained cloths are recovered/found at the instance of the present applicant. The present applicant was at the time of his conviction a practicing advocate in Nashik District Court.

7. Learned APP has submitted that the applicant was absconding and then there were complaints of threats given by him to the witnesses and the complainant to withdraw the allegations against him. It is pointed out that the original accused no. 1 Anjum was also externed once. Submission is release of accused no. 4 on bail may again create same situation. Learned

APP is therefore, strongly opposing grant of bail.

8. Counsel for the applicant upon instructions points out that the accused no.1 was extenuated way back in the year 1996. He further submits that accused no. 4 being a practicing advocate was attempting to obtain an anticipatory bail and was never absconding.

9. The fact that the deceased expired four days after the attack that too in a private hospital and due to septicemia and controversy pertaining thereto has also been referred to in our order dated 18/3/2019.

10. In the light of the inconsistencies noted supra and the fact that the co-accused Dinesh has already given bail, we are inclined to release accused no. 4 on bail on the following terms and conditions.

(a) He shall execute personal bond in the sum of Rs.25,000/- 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 District Judge No. 5 and Additional Sessions Sessions Judge, Nashik on first working Monday in every month 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 JOSHI, J.)

(B.P. DHARMADHIKARI, J.)