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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1049 OF 2018 IN
APPEAL NO.1360 OF 2012

Rajesh Aglesh @ Akhilesh Raman ...Applicant
vs.
The State of Maharashtra
(at the instance of Sahakarnagar
Police Station, Pune ...Respondent

Mr.Shirish Gupte, Senior Advocate a/w Mr.Shailesh
Chavan and Mr.S.P.Sahane for the applicant
Ms P.P.Shinde, APP for the respondent-State

CORAM : A.S.OKA, &
 A.S.GADKARI, JJ.
DATE : JANUARY 31, 2019

P.C.:

1 The submissions of the learned senior counsel appearing for the applicant were heard on the last date. The submissions of the learned APP were also heard. The application was adjourned only to enable the learned APP to take instructions about the antecedents of the applicant.

2 This is an application for suspension of sentence and for grant of bail. The applicant is accused No.2. The applicant along with other accused have been convicted for the offence punishable under sections 143, 147, 148, 302, 307 read with section 149 and section 307 of the Indian Penal Code. The applicant has been sentenced to

suffer RI.

3 As per the case of the prosecution, the deceased Suresh @ Mama Waghmare and the accused No.2 were in cable T.V business and there were continuous disputes between the deceased on the one hand and the accused Nos.1 and 2 on the other hand.

4 The case of the prosecution is that on receiving a call from the alleged customer, on 9th June 2010, the deceased along with Prosecution Witnesses No.1-Amol proceeded to the locality by motor cycle. They could not find the place of the customer. When they were returning back, near Poklewasti, a car gave a dash to their bike from rear side. The accused alighted from the car armed with sickles. It is alleged that the accused Nos.1 and 2 came by a motor bike and all of them assaulted the deceased by sickles.

5 The learned senior counsel for the applicant and the learned APP have taken us through the notes of evidence of the material witnesses. Apart from pointing out discrepancies and contradictions in the evidence of Prosecution Witnesses viw P.W.No.1 and P.W.No.2, the learned senior counsel for the applicant pointed out that there were prior disputes between the applicant and the deceased over the cable T.V business.

6 Our attention is invited to the evidence of

P.W.No.4 Police Inspector Bajirao Bhosale. He deposed that there were disputes between the deceased on the one hand and the accused Nos.1 and 2 on the other hand about their cable business and there were prior complaints filed arising out of the said dispute. He admitted that the statement of the deceased was recorded on 7th June 2009 signed by him in which he has accepted that he has sold his business to the accused and has executed an agreement. He accepted that there was no substance found in the prior complaints filed against the present accused No.1 and in fact there were five such complaints filed by the deceased. P.W.No.1 who is the star Prosecution Witness is the real brother of the deceased. Even he deposed that the accused Nos.1 and 2 and the father of the accused No.2 had a dispute over the cable business with the deceased.

7 The learned APP has tendered across the bar a report received by her from the police. The report records that except for the case in hand, the applicant is not involved in any offence. The applicant has undergone sentence of eight and half years and more. Considering the pendency of number of appeals against the orders of conviction where the accused are in jail for last more than ten years, this appeal is not likely to be heard in near future. As per the report submitted by the learned A.P.P, no other prosecution is faced by the applicant.

8 Considering the aforesaid facts, a case is made out for enlarging the applicant on bail. Accordingly, we pass the following order:

- (I) The substantive sentence imposed upon the applicant Rajesh Aglesh @ Akhilesh Raman by the impugned Judgment and order dated 9th November 2012 passed by the learned Additional Sessions Judge in Sessions Case No.703 of 2010 shall stand suspended till the final disposal of the appeal and the applicant shall be enlarged on bail in the sum of Rs.25,000/- (Rupees twenty five thousand only) with one or two local solvent sureties in the like amount;
- (II) The bail is granted subject to the condition that the applicant will furnish detailed address of his place of residence where he proposes to reside after he is enlarged on bail and contact telephone/Cell number to the concerned Jail Superintendent;
- (III) The bail is granted subject to condition of the applicant reporting to the concerned Trial Court at 11.00 a.m on first Monday of every January and July of every calendar year till the disposal of the appeal;
- (IV) If the applicant fails to report to the Trial Court as aforesaid, the concerned 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;

(V) Application is disposed of on above terms.

(A.S.GADKARI,J.)

(A.S.OKA,J.)