

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.1140 OF 2018
IN
CRIMINAL APPEAL NO.960 OF 2018

Pappu @ Ravindra Balbhim Dhotre .. Applicant
Versus
The State of Maharashtra & Anr. .. Respondents

Mr. Kuldeep Patil I/b. Prashant Hagare for applicant/appellant
Mrs. M.H.Mhatre, APP for State.

CORAM : B.P.DHARMADHIKARI, &
P.D.NAIK, JJ.

DATE : 1st APRIL 2019.

P.C.

Heard learned Counsel for the appellant and learned
APP for State. Perused the judgement delivered by the trial court,
evidene of P.W.-6 and evidence of eye witness.

2] The last seen together, motive and recovery of weapon
and clothes of accused under section 27 from accused No.1
(present appellant/applicant) are the circumstances used by the trial
court to return a finding of guilt under section 302 of Indian Penal

Code.

3] After hearing respective Counsel we find that along with accused No.1, there were two more persons as accused Nos. 2 and 3. The trial court has acquitted them after holding that last seen together by itself cannot constitute a clinching circumstance.

4] Insofar as recovery under section 27 of the weapon is concerned, no blood stains are found on the weapons. Similarly on clothes of accused also, there are no blood stains. Recovery of weapon is after about three days of arrest and that too from a spot which is about 40 feet away from the alleged spot of occurrence. Perusal of evidence of P.W.-6 shows that it is by the side of a canal approachable after getting down from a bridge. A sattu and koyta (sickle) have been shown as recovered from accused.

5] Investigating Officer has deposed that after visit to crime scene surrounding area is generally searched for finding out clues and evidence.

6] The motive alleged as accused- appellant witnessing a vehicular accident. He has not participated in that incident in any manner.

7] In the situation we find that the appellant/ applicant is entitled to be released on bail. He is in custody since 29th May 2014.

8] We therefore direct his release on bail during the pendency of this appeal on his furnishing two sureties in the sum of Rs.25,000/- each with an undertaking that he would not participate in any manner in untoward incident and shall always reside at the given address. The address shall be furnished to trial court as also to the concerned police station while furnishing bail bonds.

9] As a condition of his release he shall, on first working Monday after every two months, report to Registrar/ Superintendent of Baramati Court and mark his attendance.

10] Failure to mark attendance shall be seen as breach of

this order and shall entitle the trial court to proceed to take accused in custody in accordance with law.

11] Application, accordingly is allowed and disposed of.

(P.D.NAIK, J)

(B.P.DHARMADHIKARI, J)