

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Bail Application NO. 2044 OF 2019

Annaso Tulajgonda Patil

...Applicant

Versus

The State Of Maharashtra

...Respondent

....

Mr. Tejas Hilage, Advocate for the Applicant.

Mr.S.H. Yadav, APP, for the Respondent-State.

Mr. H.N. Mali, PC-1665, Shirol Police Station, Kolhapur is present in Court.

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CORAM : SARANG V. KOTWAL, J.

DATE : 30th SEPTEMBER, 2019

PC.

1. The applicant is seeking his release on bail in connection with C.R. No.36/2015 registered with Shirol Police Station, Kolhapur under Sections 302, 323 read with 34 of I.P.C.
2. The applicant is in custody since 7.5.2015.
3. In the past, the applicant had approached this Court on two occasions. On the first occasion, the applicant had preferred Criminal Bail Application No.661/2016. At that time, the application was disposed of by this Court (Coram: Smt.Sadhana S. Jadhav, J.) with directions to the learned Sessions Judge, Kolhapur

to conclude the recording of evidence as far as possible within six months from the date of receipt of the order. The order was passed on 4.10.2016. The applicant was granted liberty to renew his prayer for bail after six months.

4. On the second occasion, the applicant preferred Criminal Bail Application No.1797/2017. This application was decided by this Court (Coram: Smt. Sadhana S. Jadhav, J.) vide order dated 20.2.2018.. At that time, the learned A.P.P. had submitted that the charge was already framed but the trial had not progressed further. This Court thereafter expedited the trial further. It was observed that the learned Sessions Judge, Jaysingpur should make every endeavour to commence the recording of evidence within two weeks from the date of receipt of the order dated 20.2.2018. As far as the medical condition of the accused is concerned, this Court had directed that proper medical treatment be provided to him.

5. Today I am informed that the trial is still not concluded. The learned Counsel for the applicant makes statement that only one witness is examined so far.

6. Inspite of clear orders passed by this Court on past two occasions, this slow progress of the trial is inexplicable. The learned trial Judge is directed to make serious efforts to proceed with the trial as expeditiously as possible in view of the earlier orders mentioned hereinabove. Those two orders still stand.

7. The learned Counsel for the applicant thereafter made submissions on the merits of the matter. The learned Counsel for the applicant submitted that though there are eye witnesses, the applicant himself had filed cross-case and, therefore, the allegations in the FIR and the statements of eye witnesses are not correct. The learned Counsel submitted that the applicant had acted in private defence.

8. The learned A.P.P. opposed these submissions.

9. I have perused the FIR. The FIR is lodged by son of the deceased on 5.5.2015. It is stated on 5.5.2015, he, his uncle Sudhir and his father-deceased Sunil Patil had gone to Jambhali village. That time, the present applicant and his brother Kakasaheb were present. There was a long standing dispute in respect of a land.

10. The applicant assaulted the informant's uncle Sudhir

with a glass bottle. While the informant was trying to save his uncle Sudhir, co-accused of the applicant intervened. In the meantime, the applicant removed a knife and assaulted informant's father on his chest on the right side. When the informant was trying to save his father, the applicant gave another blow on the left side of the chest. The informant's father Sunil Patil fell down. He was severely injured and was lying in a pool of blood. Thereafter the applicant and his brother left the place. The informant and his uncle Sudhir removed the injured Sunil Patil to a dispensary. He was asked to go to Jaysingpur. He was then taken to Sangli Civil Hospital, but, he was declared dead before admission.

11. Besides the informant, there is statement of father of the deceased, namely, Annasaheb Patil. He has narrated the same incident as was narrated by the first informant. The statement of the witness is supported by the postmortem notes which show that the deceased had suffered two injuries on the chest and two abrasions. The cause of death was mentioned as death due to stab injury over chest. Thus, there is direct evidence of two eye witnesses supported by the medical evidence. Besides this, a knife

is recovered at the instance of the applicant.

12. The submission that the applicant had acted in private defence cannot be accepted because he has suffered absolutely minor injury and his FIR is lodged belatedly. Hence, on merits, the applicant does not have any case for release on bail. However, considering the past two orders, the learned trial Judge is again requested to conduct the trial as expeditiously as possible. Application is disposed of with these directions.

(SARANG V. KOTWAL, J.)