

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1081 OF 2019

Prashant @ Baba Ramesh Pujari ... Appellant

Versus

The State of Maharashtra and anr. ... Respondents

Mr. Ashok Mundergi, Sr. counsel a/w Mr. Niranjan Mundergi i/by
Rshikesh Mohite for the appellant.

Dr. F.R. Shaikh, APP for the State.

Mr. Paras Yadav for respondent no. 2.

CORAM : B.P. DHARMADHIKARI &
SMT. SADHANA S. JADHAV, JJ.
DATE : NOVEMBER 20, 2019

P.C.:

Heard respective counsel.

2. Order dated 24/7/2019 passed by the Additional Sessions Judge, Pune in Special (Atrocity) Case No. 23 of 2019 rejecting the bail application of the present appellant/accused no. 3 has been questioned.

3. Contention is road accident has been seen as an offence under section 302 IPC. The driver of the car which dashed against deceased Balasaheb also belongs to the same caste as that of the deceased and in this situation provisions of Scheduled

Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not applicable. Our attention is drawn to the fact that the accused persons were known to each other and they had a meeting on previous night or then CDR of telephone calls exchanged between the accused persons (total three calls) have been relied upon for drawing an inference of conspiracy. The CC tv footage is also to be recovered but that CC tv footage if admitted, shows presence of the applicant at some other place on his motor cycle.

4. Learned APP as also learned counsel for respondent no. 2 complainant are strongly opposing intervention. They submit that the trial court has in its order looked into all relevant material and its conclusions are neither perverse nor without jurisdiction.

5. It is claimed that the present applicant was entrusted a responsibility to find out whether the deceased had expired or still alive on the spot.

6. The facts show that the deceased and his friend Kelekar had gone for usual morning walk when Polo car gave dash to the deceased. This was informed by eye witness Shri Kelekar to the complainant/wife of the deceased. He has stated that the white car was moving in suspicious manner and had taken 2/3 rounds.

7. The statement of Mr. Prakash Kelekar recorded almost two

weeks after the incident reiterates the same story. He has mentioned that initially he felt that somebody was learning driving and therefore, Polo car was moving in the area.

8. It appears that in this backdrop because of the grievance made by the complainant and the elections to gram panchayat which were conducted in February, 2018, the Investigating Officer looked into the matter with some suspicion. The informant has mentioned that the elections for the post of Sarpanch were conducted on 15/3/2018 and in it Reshma Kamble, wife of accused no.1 contested against the informant. The informant succeeded in it. As the informant succeeded in the said election, accused no. 1 had grudge against him.

9. The incident is almost one year after the said election. Only because of the fact that accused person and some other persons had a meeting on the previous day or then some telephone calls were exchanged, inference of conspiracy cannot be drawn. Similarly, it is difficult to invoke provisions of Atrocities Act in this situation.

10. We therefore, find the appellant/applicant entitled to grant of bail on the following terms and conditions :

(a) The applicant shall execute personal bond in the sum of Rs.20,000/- before the trial court 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 Sessions Court, Pune on first working Monday after every two months 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) Appeal is accordingly allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)

(B.P. DHARMADHIKARI, J.)