

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1611 OF 2017

IN

APPEAL NO. 414 OF 2016

Sharad Hiranman Mohol ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Harshad Ponda a/w Mr. Samsheer Garud and Santosh Avhad
I/by Prashant Patil for the applicant.

Mr. J.P. Yagnik, APP for the respondent State.

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

DATE : APRIL 23, 2019

P.C.:

Accused one Sharad convicted vide judgment and order dated 19/5/2016 in Sessions Case No. 318 of 2010 by Additional Sessions Judge, Pune for the offences punishable under sections 302 read with 149, read with 120B IPC and other sections is before this Court seeking interim bail. It is not in dispute that he was on bail during the trial.

2. Our attention has been invited to the fact that Advocate Prashant Patil has filed Vakalatnama in the bail application and he

also appears for the appellant accused no.1 in the main appeal with a result that the observations made by this Court in its order dated 25/2/2019 and circular no. 13 of 2019 dated 13/3/2019 stand complied with.

3. The short submission of the learned counsel for the applicant Sharad is conviction is based mainly on the testimony of PW 1 Vijay Marane. While describing the incident, he has not mentioned the present applicant at all and has not assigned any role to him in the incident dated 11/1/2010. After identification parade dated 16/1/2010 and 10/3/2010 also he has not expressly assigned any role to the present applicant. The contention is in supplementary statement recorded on 11/3/2010, the names of the accused persons are disclosed on hear say knowledge. In this backdrop though he mentions accused no.1 in FIR, no specific act as such is attributed to him and participation of only three persons i.e. accused nos. 3,5 and 7 has been pointed out.

4. Our attention has been invited to order dated 12/7/2017 passed by this Court releasing the accused no. 2 Hemant on bail.

5. Learned APP strongly opposes any intervention. He states that PW 1 is the eye witness and he has named the present applicant as one of the accused persons. He has taken us through

the relevant part of deposition of PW 1 particularly paragraphs 12 to substantiate his contention.

6. We have peruse the deposition of PW 1. He has described the incident in paragraph 9 of his deposition. There he points out only three persons as accused and those three persons are accused no. 3 Datta, accused no. 5 Munna and accused no. 7 Dipak. He does not mention any fourth person as accused at that juncture.

7. Even in supplementary statement recorded on 11/3/2010, though he claims to have identified accused no.1 Sharad, he has not assigned any role to him.

8. For somewhat similar reasons, this court has on 12/7/2017 enlarged the accused no.2 Hemant on bail.

9. Accordingly we find that the present applicant is also entitled to same relief.

10. In this situation, the applicant shall after execution of fresh bond and furnishing sureties on the same terms and conditions as before the trial court, be released on bail during the pendency of this appeal.

11. However, in addition, (a) he shall supply residential address at which he shall be available during the period of this appeal with contact numbers and shall also intimate the changes therein by

suitable affidavit within 15 days to this court as also to the concerned police station and (b) on 1st working day once in the period of every two months, he shall mark his attendance in the office of Superintendent, Additional Sessions Judge/Additional Sessions Court Pune.

12. Failure to observe these terms and conditions shall empower the Court including the trial court to take him in custody forthwith.

13. Application is accordingly allowed and disposed of.

(PRAKASH D. NAIK, J.)

(B.P. DHARMADHIKARI, J.)